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~~ONTARIO LEGISLATIVE ASSEMBLY~~
SELECT COMMITTEE
ON

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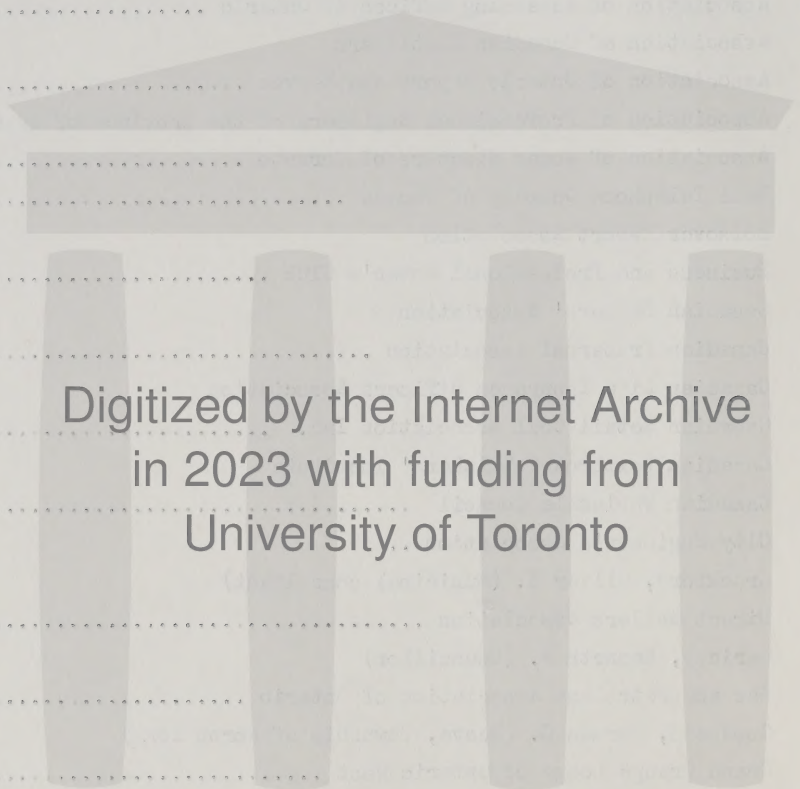
THE MUNICIPAL ACT AND RELATED ACTS

BRIEFS & SUBMISSIONS
~~ASSOCIATIONS, CORPORATIONS,~~ 1961
INDIVIDUALS, ETC.
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Ontario. Legislative assembly. Select Committee on Associations, corporations, individuals. the Municipal act and related acts
Briefs and submissions v. 1

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[21]	Goodhead, Norman C. (Reeve, Township of North York)	1
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[26]	Herman, Bernard W., Q.C.	1
[27]	Institute of Municipal Assessors	1
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[33]	Muskoka Lakes Association	1
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[38]	Ontario Chamber of Commerce	1
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[40]	Ontario Council, National House Builders Association	1
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[45]	Ontario Retail Feed Dealers Association	2
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[54]	Public School Trustees' Association	2
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[57]	Toronto Parking Operators' Association	2
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Brief To The
Select Committee on the Municipal
Act and Related Acts
from the
AGGREGATE PRODUCERS ASS'N OF ONTARIO

To The
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS
from The
AGGREGATE PRODUCERS ASSOCIATION OF ONTARIO

1. Preamble

The Association representing producers of construction aggregates throughout Southern Ontario, is pleased with this opportunity to present the views of the Industry to the Committee.

The Association was organized in 1956, when eighteen charter members incorporated the Aggregate Producers Association of Ontario. Letters Patent were issued by the Provincial Secretary on December 5, 1956. Today, the membership comprises 41 Regular and 36 Associate members, a total of 77 members.

It is estimated that the members of this Association produce 20 million tons of construction aggregates annually, throughout Southern Ontario.

Among the several aims and objects of the Association, are the following:-

"To take any action that may promote efficiency and economy in all that relates to the carrying on of the business of the members."

"To join or associate with any other organization calculated to promote the objects of the Association."

"To make representations to Municipal, Provincial and the Federal governments as the Association or its officers may recommend in relation to the economical welfare of its members."

2. Recommendations

The following recommendations have been considered and approved by the Directors of the Association at their Regular monthly meeting, held on September 25th at Woodstock, Ontario.

(a) The Municipal Act

Section 379 (1) 118 of the Act provides that a local Municipal Council may enact a by-law to prohibit enlargement or the operation of a pit or quarry on land which is restricted to residential or commercial use by a by-law or official plan adopted before January 1, 1959. While this section precludes application of such a by-law to a pit or quarry established prior to January 1, 1959, it does enable the Municipal Council to prohibit the extension or enlargement of any existing pit or quarry beyond the limits of the land owned and used for this purpose on January 1, 1959.

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The effect of this legislation is that land which is zoned residential or commercial, regardless of the amounts of natural non-renewable mineral resources which it may contain, are lost. Even though an established pit or quarry may have exhausted the deposits of the land which it has operated, it may be prohibited from developing adjacent land containing additional mineral resources unless it happened to own the land on January 1, 1959. Under these conditions, the operation has no alternative but to close and move further afield to other areas containing deposits which are not subject to the same zoning restrictions.

This trend and its effects are described in some detail in a recent publication of the Ontario Department of Mines entitled "Urban Expansion and the Mineral Industries in the Toronto-Hamilton Area", Report No. 8 by D.F. Hewitt.

It is not our intention to quote at great length from this report. Rather it is sufficient, we believe, to state that the Association concurs with the facts and views of this report. We respectfully submit that legislation which prohibits the full exploitation of non-renewable mineral resources is not in the best interests of the public.

1940-1941, 1942-1943, 1944-1945.

1946-1947, 1948-1949, 1950-1951, 1952-1953.

1954-1955, 1956-1957, 1958-1959, 1960-1961.

1962-1963, 1964-1965, 1966-1967, 1968-1969.

1970-1971, 1972-1973, 1974-1975, 1976-1977.

1978-1979, 1980-1981, 1982-1983, 1984-1985.

1986-1987, 1988-1989, 1990-1991, 1992-1993.

1994-1995, 1996-1997, 1998-1999, 2000-2001.

2002-2003, 2004-2005, 2006-2007, 2008-2009.

2010-2011, 2012-2013, 2014-2015, 2016-2017.

2018-2019, 2020-2021, 2022-2023, 2024-2025.

2026-2027, 2028-2029, 2030-2031, 2032-2033.

2034-2035, 2036-2037, 2038-2039, 2040-2041.

2042-2043, 2044-2045, 2046-2047, 2048-2049.

2050-2051, 2052-2053, 2054-2055, 2056-2057.

2058-2059, 2060-2061, 2062-2063, 2064-2065.

2066-2067, 2068-2069, 2070-2071, 2072-2073.

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2082-2083, 2084-2085, 2086-2087, 2088-2089.

2090-2091, 2092-2093, 2094-2095, 2096-2097.

2098-2099, 2100-2101, 2102-2103, 2104-2105.

2106-2107, 2108-2109, 2110-2111, 2112-2113.

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2146-2147, 2148-2149, 2150-2151, 2152-2153.

2154-2155, 2156-2157, 2158-2159, 2160-2161.

It is recommended that when an established pit or quarry exists in an area zoned residential or commercial and adjacent to land, containing further known natural mineral resources, then such owner may extend or enlarge his operation, regardless of the date of ownership, and that a Municipal Council may not, by passage of a by-law under this Section, prohibit extension or enlargement of such an operation.

Section 379 (1) 119 - provides a Municipal Council with authority to enact a by-law to require the owner of a pit or quarry within 300 feet of a road, to grade and level the floor and sides of the pit or quarry when it has been inoperative for a period of twelve consecutive months.

While this Association agrees that pits and quarries should not be unsightly or constitute a hazard to the public, and that the public must be safe-guarded against such circumstances, the requirements for grading and levelling the floor and sides are uneconomical, onerous, and that the period of inoperation is not of sufficient length to warrant the expense of grading and levelling.

It often occurs that a pit or quarry may become inoperative in the late Fall or early Winter, and may not reopen until the following Spring entailing a closed period of six months. If market or inventory conditions are such

that further operation of the pit or quarry would be uneconomical it is quite conceivable that the operation could be closed for an additional six month period for this reason, and a further period of six months again because of Winter conditions. The total inoperative period would then amount to eighteen consecutive months, while the practical operating period would be only six months of the eighteen. To level and grade the sides and floor of a pit or quarry which has been inoperative for twelve consecutive months would prove financially onerous to the producer, and ultimately, to the public. It is also quite likely that the costs could result in the operation being closed permanently and the balance of the natural mineral resources lost completely.

It is the recommendation of this Association that this section of the Act be amended to provide a longer period of time during which a pit or quarry may be inoperative and that regulations applicable to a by-law passed by a Municipal Council may not be implemented without approval of the Municipal Board.

Section 469 - 6

This clause permits a Municipal Council to pass a by-law regulating pits, precipices, and deep waters, etc., within a municipality.

It is agreed by the Association that such legislation is necessary to the public interest and safety. It is our view that some municipalities have been over zealous in this respect and have required operators of pits and quarries to be put to excessive expense to meet the demands of the by-laws.

It is the recommendation of this Association that this clause of Section 469 specifically provide for approval of the Municipal Board, prior to the implementation of the municipal by-law.

Section 469 - 7 and 8.

These clauses provide authority for a municipality to procure stone and gravel from within the municipality or by agreement from another municipality for the purpose of maintaining, repairing or constructing highways, bridges, etc.

While it is realized that municipal maintenance crews are required for minor repairs of municipal highways and other municipal property, the Association believes that it is in the public's best interest that construction and major maintenance is most economically and efficiently accomplished by tender calls from qualified contractors. It is also the view of the Association that established pits and quarries can, and should provide, sand, gravel, and crushed stone, to municipalities more efficiently, and at

less cost than the municipality which operates its own pit or quarry.

It is our recommendation that these clauses be amended to permit a municipality to acquire land for the purpose of procuring stone, sand or gravel, only when such materials are not available from a commercial source, if such source is within a 15 mile radius of the project.

(b) The Planning Act

Section 30 (1) 6 - provides that a Municipal Council may pass a by-law prohibiting the making or establishment of pits and quarries within the municipality or within any defined area.

Because of the large volume of construction aggregates required to meet present and future needs, the declining reserves of non-renewable construction aggregates, and the high cost of transportation from pits and quarries to construction sites, we believe it is in the best interests of everyone that mineral resources be developed and used prior to the land being used for other purposes. This view is explained in considerable detail by the Ontario Department of Mines Report No. 8, referred to above.

It is the recommendation of this Association that this clause be repealed. It is further recommended that prior to development or the imposition of restrictive by-laws that municipalities be required to conduct a

geological survey to determine the mineral resources available and to reserve the resources for future use by prohibiting development of the area for other than agricultural, park, recreation, or other uses which would not restrict the development of the natural mineral resources when required.

We suggest also that lands purchased or held for future use as reserves for development and production of construction aggregates, be designated and registered as being reserved for this purpose. Purchasers of adjacent property would be fully aware of its interim use. Provision should be included which would prevent a Municipal Council from legislating against the use of the reserve until the mineral resources have been exhausted.

(c) The Assessment Act

The Act does not, to our knowledge, provide a basis for encouragement of the preservation of natural mineral aggregate reserves. It does however, permit exemption for part of farm lands within a municipality when the land does not require or use some of the municipal services. The Act in Section 35, Sub-section 15 and 16 provides that forestation and reforestation and the presence or removal of trees is not a basis for increasing or decreasing the assessment of land. Section 4 Sub-section 18 provides exemption of land for forestry purposes. Under Section 39 a municipality is empowered to enter into an agreement with the owner of a golf course and arrange a fixed assessment.

It would appear therefore that the Act recognizes that services provided by a municipality, but not used by an owner, can in effect, result in reduced assessment. It recognizes too that natural renewable resources warrant a partial exemption and that the presence or absence of natural renewable resources do not affect the value of the land. Provision is also made in the Act for fixed assessments. It is apparent that the legislators have in the past provided exemptions when it has been established that such are in the best interests of the public.

It is the view of this Association that if adequate reserves of non-renewable resources are to be maintained for the future use of the public and protected from other forms of development, some concessions and encouragement must be initiated to achieve this end. Again we refer to the Ontario Department of Mines Report No. 8, which effectively warns us of the diminishing availability of natural construction aggregates and the high cost of transportation from areas which are becoming located further from the market each year.

On the basis of the above, the Association recommends that land containing natural mineral aggregate reserves held by established operators of pits or quarries be encouraged to hold these lands as reserves of non-renewable resources by empowering municipalities to grant exemptions under the Assessment Act. We also recommend that the assessment of worked out pits and quarries revert to an assessment commensurate with their use.

3. Conclusion

The Association believes that the public, municipal officials and other interested groups are not fully aware of the implications and effect of existing legislation on the construction aggregate industry and the resulting high cost of aggregate materials for both public and private construction. Nor are these groups familiar with the situation of declining reserves and losses of natural mineral resources which were not exploited before other forms of development were permitted. Because of legislation and rapid growth of residential, commercial and industrial development, untold quantities of natural mineral resources have been lost, probably forever.

The Association wishes to thank the Committee for the opportunity of expressing its objections and views on the existing legislation affecting the industry and its recommendations which we sincerely feel to be of benefit not only to the industry but to the public and future generations as well.

Respectfully submitted by the Aggregate Producers Association of Ontario.

J.B. Regan
President.

October 5th, 1962.



THE ASSESSMENT ACT

R.S.O. 1960, CHAPTER 23

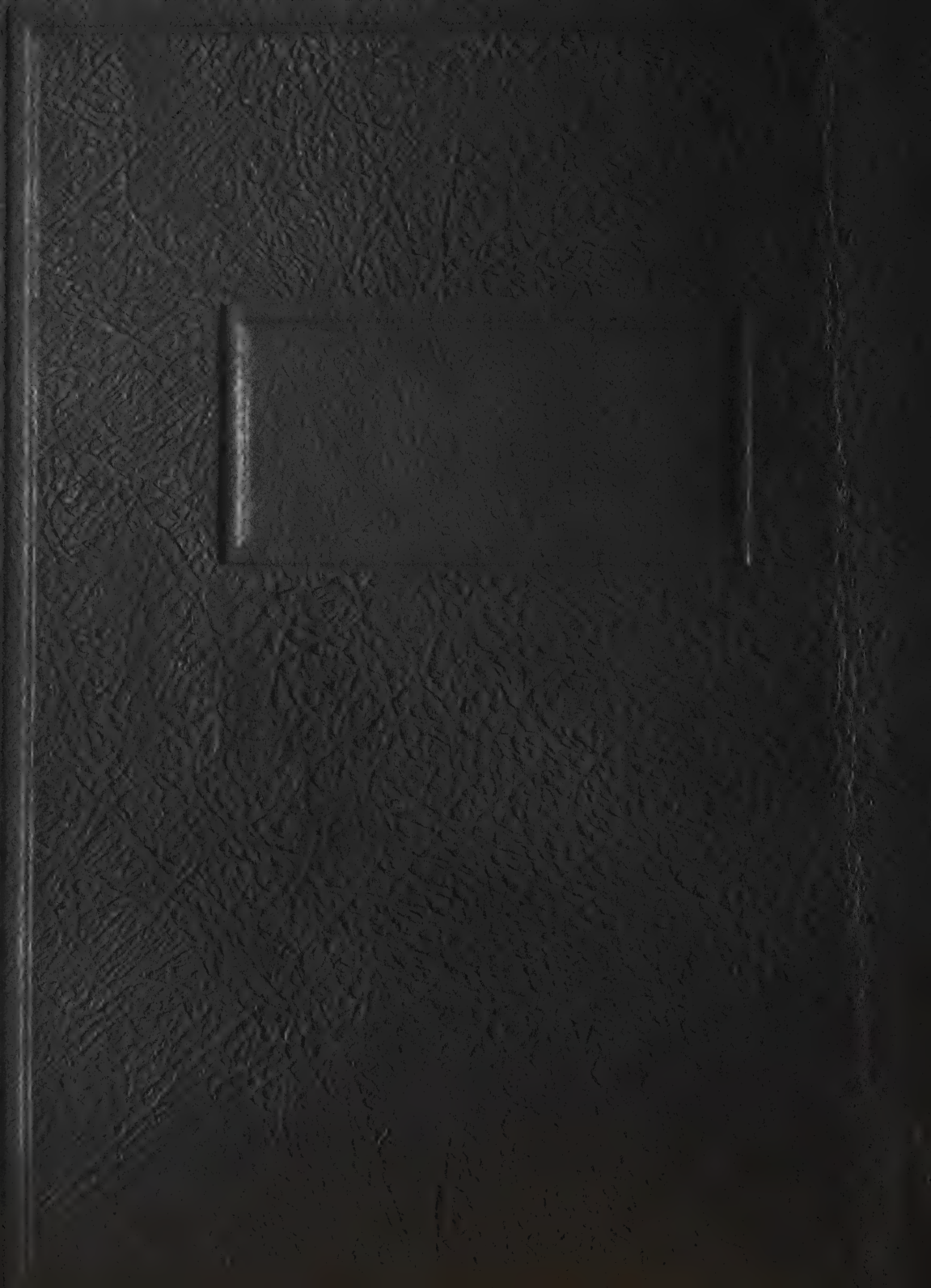
PROPOSED REVISIONS AND AMENDMENTS AS
SUGGESTED BY

THE RESEARCH COMMITTEE

OF

THE ASSOCIATION OF ASSESSING
OFFICERS OF ONTARIO

W. H. Brown



THE ASSESSMENT ACT

R.S.O. 1960, Chapter 23

Proposed Revisions and Amendments as Suggested by

The Research Committee

of

The Association of Assessing Officers of Ontario

SECTION 1 - Interpretations

In the Province of Ontario assessors are appointed by councils of municipal corporations by authority of The Municipal Act. The assessors make assessments by authority of The Assessment Act. The municipal councils levy taxes on every person so assessed by authority of The Municipal Act and The Assessment Act. These and other Provincial statutes are made up of words which seek to convey the intention of the Legislature which enacted them. Since the same word may convey different meanings to different persons various means have been used to limit or to define or clarify the meaning of the words used in the statutes.

The assessor has as a guide in the interpretation of The Assessment Act, section 1 of the said Act, known as the "Interpretation Section" which is made up of over twenty words or phrases. The assessor has as other aids in the interpretation of The Assessment Act, the Interpretation sections in other statutes e.g. The Municipal Act, the Judicature Act, and the Interpretation Act. The assessor has further aid in interpretation of The Assessment Act in the decisions of county judges or the Ontario Municipal Board on assessment appeals, and in decisions of appeal court judges which define or clarify words and phrases and establish general principles governing the construction of statutes.

Since assessors generally do not have easy access to all of these aids a proper interpretation of The Assessment Act in the Interpretation Section is considered advisable. In the present Act certain interpretations or definitions are scattered through the Act, e.g. "woodlands" is defined in Section 35 (17), "farm" is defined in section 24, "Rooming house" is defined in section 9 (11)(a). "Tenant", "residence" and "rent" are defined in section 34 (1)(a) (i, ii, iii). Some definitions may apply to every section of The Assessment Act, some appear to be properly restricted to one section.

Interpretations of words and phrases should appear in section 1. However, when this is not expedient, cross references should be made between section 1 and the specific section. It is suggested that all interpretations should be prepared alphabetically. Words and phrases recommended for inclusion in the Assessment Act are:

1. Agent - A person who has authority, express or implied, to act on behalf of another called the principal and consents to do so.

2. Assessor - A statutory officer of the municipality who determines the value of property for rating purposes and who performs the other duties prescribed by statute and/or council.
3. Chief or preponderating business requires definition as to amount of property occupied or to income derived but not both.
4. Contractor - One who generally contracts to erect or construct for a stipulated sum.
See also Section 9, Subsection (5).
5. County Judge and Judge of the County Court should require only one definition.
6. Farmer - is a person whose principal occupation is the tilling of the soil, or the raising of fruits, vegetables, livestock or poultry, or milk, eggs, honey or other agricultural products and from which he normally derives the main source of his livelihood.
7. Forestry Purposes shall include "farmer's woodlot", Section 4 (18).
8. Jurors' List

Qualification for juror See Jurors' Act, Chapter 199, Sections 2, 3, 4, 5 and 6.

Selection of Jurors - See Jurors' Act, Chapter 199, Sections 17 to 25.

9. Land used as a Farm means land used for regular cultivation, grazing or other agricultural purposes, including the growing of any kind of crop, hay, grain, tobacco, flowers, shrubs, and trees, or for raising any kind of poultry or livestock, or for producing milk, eggs, honey, or any product from animals or poultry.

But NOT including the land actually used for:

- (a) Production of queen bees,
- (b) Hatching by incubation, chicks or young of any kind of poultry and to include broiler stations or other plants of a similar nature
- (c) Raising animals or birds for use or sale as pets or for sport
- (d) Production or sale of cut flowers and florists' supplies.

Any part of a farm or market garden or nursery shall be separately assessed that can be classified as a retail or wholesale outlet or as a manufacturing or processing plant, whether the product is produced by the operator or purchased from others.

10. Land used in connection with means any land used for the purpose of, connected or otherwise.
11. Locality means adjoining, contiguous, neighbouring and/or vicinity within a particular municipality.
12. Machinery - Subsection (i) clause (iv) re "machinery". All machinery is interpreted as being assessable. Section 4, subsection (17) states the type of machinery which is exempt from taxation. This subsection then goes on to state some types of machinery which are not exempt from taxation, but gives no intimations if these types of machinery are the only ones to be taxed. It appears at present that assessors could assess as rateable property such machinery as printing presses, or any type of machinery not used for manufacturing or farm purposes. Section 43, subsection (10) re public utilities states, "there shall be no assessment of machinery whether fixed or not, etc." Question - Why, therefore, is it left open to assess privately owned machinery, etc.? This should be clarified and brought up to date and reworded so there is no ambiguity or conflict with wording of other sections of The Assessment Act.

Machinery should be defined.

Assessable and nonassessable machinery should be clarified.

See Section 4 (17) and section 20 (3).

13. Manufacturer - Shall include a person carrying on the business of manufacturing, assembling, processing, quarrying, refining or blending.
14. Occupant is a person in actual possession and control of the premises occupied by him and/or in company with others.
15. Owner - Should be interpreted for assessment purposes, and to include a person with life lease who shall be deemed to be the owner and bracketed with the owner.

When occupant deemed to be owner. See Municipal Act, Section 4 (a)(b). Should be placed in Section 1 of The Assessment Act.

16. Public Funds - Monies provided from the treasuries of federal or provincial governments.
17. Residence - A person's chief place of abode.
See Section 20 (1)(6) and Section 34 (1)(a)(ii).
18. Retail Merchant - means one who deals directly with the consumer.

19. Tenant - Includes occupant and person in possession other than the owner and the husband if resident shall be the tenant.

For school purposes the husband shall be the tenant.

Farmer's son if occupying own living quarters shall be entered on the roll as tenant. Section 24 to be amended as above.

20. Voters' List - Add to subsection (t).

Qualification for municipal elector, See Municipal Act, Chap. 249, Sections 34 to 38.

21. Wholesale Merchant - means one who deals primarily with persons who buy to sell again.

CROSS REFERENCES

Public School Act Chapter 330

Equalization of Union Sections, Sections 43 & 55

Separate Schools Act Chapter 368

Qualification Sec. 47, 48, 49, 50, 51, 52 & 57

Change of Support 53 & 54

Correction of error in tax 55

Corporation School Support 58

ADD TO END OF ASSESSMENT ACT INTERPRETATION SECTION

The following Acts should be referred to for further interpretations of the statutes:

Interpretation Act, Chapter 191 R.S.O. 1960 Sec. 26, 27, 30, 31 & 32.

Judicature Act, Interpretation Section, Chapter 197, Sec. (1) R.S.O. 1960.

Municipal Act, Interpretation Section, Chapter 249, Sec. (1) R.S.O. 1960.

SECTIONS 2 - 3 No change.

Comments

The above sections pertain to taxation and should be subsections 1 and 2 of Section 105 (who liable for taxes).



SECTION 4

All real property in Ontario shall be liable to assessment and taxation, subject to the following exemptions from taxation.

Comments

There should be no exemptions. It should not matter whether it is an organization, church, school, Dominion, Provincial, Municipal property, hospital, cemetery, in fact, nothing that is now being exempted by statute should be left to the mercy of a centralized body such as the Ontario Legislature to allow exemptions, but every exemption should be treated on its individual merit.

As stated by Lord Halsbury in "The Commissioners for Special Purposes of the Income Tax v Pembel" (1891) AC 531 & 551 that, "There is no purpose in a taxing act but to raise money and an exemption is just as much within the criticism as any other part of the Act, since every exemption throws an additional burden on the rest of the community."

We agree with this statement especially the part where he states, "since every exemption throws an additional burden on the rest of the community."

Section 4 of our Assessment Act has become long, confusing and inequitable. We are strongly of the opinion that if the exemption section were to be completely taken out of The Assessment Act there would be a great deal more equity than we have at present.

It is amazing to examine an Assessment Act of 1920 and today's and see the lengthy list of exemptions that have been placed upon the statutes since that time and while it is agreed the assessor has no jurisdiction appertaining to the tax dollar, nevertheless he has a prime duty to perform in making an equitable and uniform assessment on which our municipal tax structures are based.

We recommend complete removal of all exemptions from the Assessment Act and other chapters of the Revised Statutes of Ontario 1960, but as an alternative to this would suggest the following amendments to Section 4.

s.s. (1)(2)(3)(4)(5)(6)(7) No change.

s.s. (8)

Comment Should be amended.

We believe only the land actually used for highway purposes etc. should be exempt, the balance should be assessed and taxable. Toll roads, toll bridges and tunnels should be assessed and taxable in their entirety.

s.s. (9) No change.

44

s.s. (10) Delete.

Comment Delete this section.

These should be taxable. We are not belittling the work they do but they should pay taxes the same as other organizations.

s.s. (11) Delete.

s.s. (12)(13)(14)(15) No change.

s.s. (16)(17)(18) Delete.

SECTIONS 5, 6 & 7 Delete.

SECTION 8 This section unnecessary if Section 4 is removed, but otherwise no change.

SECTION 9 The Research Committee of the Association of Assessing Officers of Ontario, in particular has been studying Section 9 pertaining to "business assessment" with the thought in mind that its suggestions for amending Section 9 would result in greater equity and easier application.

Alternative methods such as gross receipts or annual rentals were studied. Considerable data was obtained from various municipalities to further this research. From a compilation of the results there did not seem to be too much equity, and their application would appear to be too cumbersome and/or too costly for practical application; the Committee, however, felt that further research could be carried out.

We are very much aware that other bodies as well as ourselves have been studying some alternative method of applying business assessment from as far back as the year 1950 and it would appear that this research would of necessity go on to some future indefinite date; therefore, the Committee at the present would respectfully recommend the amending of Section 9 to remove what it considers to be objectionable features and to bring the Section more in line with present day thinking on business assessment.

One suggestion we would like to stress is that, in our opinion, if amendments to the present Section are considered, all the various types of business should be listed alphabetically with the percentages to be used. This would be of inestimable value to both new assessors and those who have had some years of experience.

The following suggestions are submitted for your consideration:

Subsection 1 This subsection and subsection 14 should be combined.

Reason: To stress the effect of general words in the application of the Section.

Clause (a) Delete.

Reason: Distiller to be defined for all purposes as a manufacturer; could see no reason why the percentage should be higher than other manufacturers.

Clause (b) Delete.

Reason: Brewer to be defined for all purposes as a manufacturer; same reasoning as pertains to clause (a).

Clause (c) Delete words, "wholesale merchant, express company carrying on business on or in connection with a railway or steamboats or sailing or other vessels."

Reason: Wholesale merchants are in same category as manufacturers wholesaling to retailers; therefore, should be 60%.

Express company should be classified as a commercial business rather than primarily financial.

ADD - Investment broker and stock broker.

Reason: These are financial enterprises and should be included in Clause (c).

Clause (d) Change percentage in this clause to read 60% and add wholesale merchants.

Reason: Distributors and wholesalers are similar type operations. Manufacturers wholesaling own goods to retailers are at 60%; therefore, feel distributors and wholesalers should also be at 60%.

Clause (e) Delete words, "and a manufacturer shall not be liable to business assessment as a wholesale merchant by reason of his carrying on the business of selling by wholesale the goods of his own manufacture on such land."

Reason: Wholesalers are recommended to be 60% same as manufacturer; therefore, no longer need of above wording.

Interpretation - Manufacturer for the purpose of this clause shall include processor, assembler, iron works, rolling mills, works for refining or smelting ores, beet sugar factory, canning factory, tobacco drier and a fertilizing plant.

Clause (f) Semicolon after words, "departmental store" in second line. Delete wording in seventh line, "or of a retail coal or fuel oil or wood or lumber dealer." Delete wording in ninth line, "except the publisher of a newspaper." Delete all words beginning on tenth line, "but in cities having a population of not less than 100,000 retail coal or fuel oil dealers shall be assessed for a sum equal to 30% of the assessed value."

Reason: Semicolon to distinguish between departmental store and a retail merchant dealing in 5 lines and assessed over \$20,000. No reason for department store to be assessed over \$20,000 as some now interpret the clause. Retail coal, fuel oil, etc. to be classed as retail merchants under Clause (i).

ADD - Radio station, T.V. station, billboards and express company.

Reason: These pertain to the medium of advertising the same as newspaper publishers. Express company classed as a commercial business.

Clause (g) Delete all wording starting on the 12th line, "but where a person belonging to any class mentioned in this clause occupies or uses land partly for the purposes of his business and partly as a residence, 30% of the assessed value of the land occupied or used by him shall for the purpose of business assessment be taken to be the full assessed value of the land so occupied or used.

Reason: This is taken care of in subsection 9 of Section 9. Assessors on the whole feel that a breakdown of the property is far more equitable than this arbitrary computation of business assessment.

ADD - Public Bailiff, Consultant, chiroprapist, dental mechanic or technician, chemical or designing engineer, embalmer, factor, funeral director or undertaker, metallurgist, optometrist, optician or optologist, physicist, physchologist, X-ray technician, mail order office, all persons registered under Medical Practitioners Act or the Drugless Practitioners Act, The Dentistry Act.

Clause (h) Delete

Reason: Placed in Clause (f) comparable to publisher.

Clause (i) New clause -- Retail merchants in all classes of municipalities be 30%.

Reason: With the reassessment programmes being carried on throughout the Province in recent years there is no logical reason for any differentiation in rates.

Clause (j) Change rate to 30% to conform to Clause (i).

Clause (k) Change rate to 30%.

Reason: Comparable to retail merchant rating.

Clause (l) Change to 30%, reason as above.

Clause (m) Change to 30% - Delete sub clause (i).

Reason: Supervised car parking to-day is big business. No reason why they should not be in same rating as retail merchant. Delete sub clause (i) as no definition required.

Clause (n) Change percentage to 30%. Add clubs, commercial florists, cold storage plants, truckers, common carriers, public garages, repair and machine shops, dance halls, dance and music studios, chopping mills, barbers, beauty parlours, hair dressers, service stations, rooming houses, billiard halls, bowling alley, business college, commercial fishery, egg grading station, laundry, music teachers, skating rink, shoe repair, and drovers.

Reason: Selling service comparable to selling merchandise.

Subsection (2) Employees parking lot, no change.

Subsection (3) Manufacturer carrying on business of transportation. No change.

Subsection (4) Delete.

Reason: All clubs specified at 30% in Clause (n).

Subsection (5) Delete - Rewrite.

"Where any person carries on more than one type of business on the same premises, the property, for business assessment purposes, shall be broken down and each portion shall be assessed business assessment at the rate applicable to that particular type of business.

Reason: Too much misrepresentation and difficulty of applying under present wording. It is noted "Chief or Preponderating Business" has been deleted from the above reading. If this is to remain in the Act, Interpretation is required as shown in Item 3 Section 1.

Subsection (6) No change.

Subsection (7) Delete.

Reason: Public garages and car parks both liable for 30% under Clauses (L) and (n) as per proposed revision.

Subsection (8) Revise. \$200. Minimum.

Reason: With the reassessment programmes being carried out throughout the Province \$100. minimum is not realistic and does not pay for sending out tax bill as most reassessments have resulted in at least a 75% to 100% increase in overall assessment.

Subsection (9) Delete wording starting on 5th line, "but this provision shall not apply to persons assessed under Clause (g) of Subsection (1)."

Subsection (10) No change.

Subsection (11) and (a) needs amendment and clarification.

Subsections (12) & (13) No change.

Subsection (14) Include with Subsection (1) as suggested.

N.B. These suggested amendments would cut down the various percentages to four only, namely 30%--50%--60% and 75%.

The suggested deletions and additions would go far in assisting the average assessor in the application of this Section.

SECTION 10

s.s. (1) Amend to read as follows:

Every telephone company carrying on business in a city, town, village, township or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 60 per cent of the amount of the gross receipts from all telephone and other equipment belonging to the company located within the municipal limits of the city, town, village, township or police village, for the year ending on the 31st day of December next preceding the assessment.

s.s. (2) No change.

s.s. (3)(4)(5)(6) Delete.

Comments All assessment of telephone companies should be on gross receipts.

s.s. (7) Amend to read as follows:

Every telegraph company carrying on business in a city, town, village, township or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 60 per cent of the amount of the gross receipts belonging to the company in such city, town, village, township or police village from the business of the company for the year ending on the 31st day of December next preceding the assessment.

s.s. (8)(9)(10)(11)(12) Delete.

s.s. (13) No change.

s.s. (14) Delete.

s.s. (15) No change.

SECTION 11

s.s. (1) No change.

s.s. (2) Delete.

SECTION 12 Delete. - Not necessary if gross receipts basis of assessment.

SECTION 13 Amend to read as follows:

Notwithstanding the provisions of this or any other general or special Act, the total amount of the taxes and rates levied and imposed in any year in respect of the gross receipts of a telephone or telegraph company in a municipality shall not exceed an amount equal to 5 per cent of the total of the gross receipts of the company from its business in the municipality for the year ending on the 31st day of December next preceding the assessment, and the effect of such limitation shall be the responsibility of the municipality and charged back a proportionate share thereof to every such body for which the council is required by law to levy and impose taxes and rates.

SECTION 14

s.s. (1) No change.

Add (1a) at the end of s.s. (1) as follows:

"For the purpose of this section the dominant tenement shall be the land receiving benefit and the servient tenement shall be the land granting such benefit."

s.s. (2)(3)(4) No change.

New s.s. (5) -- Usufructory rights especially regarding water and the rights of a user.

SECTION 15

s.s. (1)(2) Condense to one subsection with amendment to read as follows:

Where land sold for arrears of taxes was a dominant or servient tenement at the time of the sale and was sold after the 3rd day of April, 1930, the easements appurtenant thereto, or to which the land was subject shall be deemed to have passed to the purchaser and not affected by the sale.

s.s. (3)(4) No change.

SECTION 16

s.s. (1) No change.

s.s. (2) Amend to read as follows:

Every adult person present on land when any person referred to in subsection (1) visits the land in the performance of his duties shall upon request give to such person all the information in his knowledge that will assist such person to make a proper assessment of the land and every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, including actual costs and rental operational statements, to make a proper business assessment in respect thereof, and to obtain the information he requires with respect to any person whose name he is required to enter on the assessment roll or in the census register.

SECTION 17

s.s. (1)(2)(3) No change.

Comment

Information pertaining to components of a building should be inspected by the assessor, not as per Form 1 Questionnaire A. A building cannot be properly valued for assessment purposes unless the assessor has seen for himself both inside and outside each building.

Questionnaire G should be amended by adding a fourth item requesting that in the case of a tenant the amount of annual rent paid.

SECTIONS 18 & 19 No change.

SECTION 20

s.s. (1) 1. & 1. No change.

s.s. (1) 3. Delete.

s.s. (1) 4. No change.

s.s. (1) 5. Amend as follows;

Where part of a subdivision lot, in a municipality, is to be assessed it shall be a sufficient description of it if the name of the owner and the tenant, if any, and the number of feet of its frontage, the number of feet of its depth, are entered on the assessment roll, and the part assessed shall be deemed to be that part of the lot so described as belonging to the owner whose name is so entered.

s.s. (1) 6. 7. & 8. No change.

s.s. (1) 9. Amend as follows:

The assessor shall also enter on the roll, bracketed with the name of the owner or tenant, the name of the husband, if not the owner, as tenant, and the wife of such owner or tenant who is entitled to be a municipal elector under the provisions of The Municipal Act.

s.s. (1) 10. No change.

s.s. (1) 11. Delete if Section 24 deleted.

s.s. (1) 12. 13. 14. & 15. No change.

s.s. (2)

Column 1. Amend to read as follows:

"The successive number on the roll of each property."

Column 2. 3. 4. No change. ✓

Column 5. If Section 24 deleted amend to read as follows:

Statement whether the person is an owner or tenant by inserting opposite his name the letter "O" or "T", as the case may be, and in the case of a person who is entitled to be a municipal elector by reason of being the wife of the person rated or entitled to be rated for land as provided by The Municipal Act, there shall also be entered the letters "M.F.N.C.", meaning that such person is entitled to vote at municipal elections but is not to be counted for the purpose of determining representation in the county council.

Columns 6. 7. 8. & 9. No change.

Column 10. Amend as follows:

"value of the land exclusive of the buildings thereon."

Column 11. Amend as follows:

"value of buildings."

Column 12. Amend as follows:

"total value of real property."

Column 13. Amend as follows:

"total amount of taxable real property."

Column 14. Amend as follows:

"total value of real property if liable for school rates only".

Column 15. Amend as follows:

"total value of real property exempt from taxation or liable for local improvements only."

Columns 16. & 17. No change.

Column 18. Amend as follows:
"amount of business assessment."

Column 19. Amend as follows:
"total taxable assessment."

Column 20. Amend as follows:
"Public School taxable residential, farm,
vacation and waste land (including value of both land
and buildings)."

Column 21. Amend as follows:
"Public School taxable professional,
commercial, manufacturing and industrial (including
value of both land and buildings)."

Columns 22 & 23. Same wording as 20. & 21. with Separate
School instead of Public.

Columns 24. & 25. Delete.

Columns 26. 27. & 28. No change.

Column 29. Delete.

Columns 30. & 31. No change.

s.s. (3)(4) No change.

s.s. (5) Amend as follows:

The form may be varied to facilitate the use of
mechanical methods of preparing the assessment roll,
and without limiting the generality of the foregoing,
and the use of abbreviations is herewith permitted for
each of the columns, so long as such abbreviations are
shown at the outset of the roll beside their meaning.

SECTIONS 21 & 22 & 23. No change.

SECTION 24. Delete.

SECTION 25. No change.

SECTION 26 Amend to read as follows:

The assessor, where the entry in the index book
mentioned in Section 25 does not show a ratepayer to be
a supporter of Separate Schools, shall accept the written
statement of the ratepayer that he is a Roman Catholic
and wishes to be a Separate School supporter as sufficient
prima facie evidence for placing such person in the proper
column of the assessment roll for Separate School
supporters.

SECTION 27 Amend to read as follows:

(1) In addition to all other rights of appeal, any person who does not appear on the assessment rolls as returned to the Clerk of the Municipality on or before October 1st, or who is not properly designated as a Public School supporter or as a Roman Catholic Separate School supporter may appeal to the Court of Revision to have any such omission or correction made. The Court of Revision shall have the same powers under this Section to amend the assessment rolls as though the rolls had been returned on October 1st.

(2) Notice of Appeal may be given at any time on or before the 14th day of October or the last day for appealing to the Court of Revision, whichever is the later and the provisions of this Act as to giving Notice of Hearing and proceedings for the trial thereof shall apply.

(3) Liability in respect of Public and Separate School Support shall be determined in accordance with the circumstances existing as of September 30th and on the closing date of the roll.

SECTION 28

s.s. (1) No change.

s.s. (2) Amend to read as follows:

Where a ratepayer, who was in the next preceding year assessed as a Public School supporter, wishes to be assessed as a Separate School supporter or where a ratepayer who was in the next preceding year assessed as a Separate School supporter wishes to be assessed as a Public School supporter, either of such ratepayer must give to the assessor, written notice of such change.

SECTIONS 29, 30, & 31. No change.

SECTION 32

s.s. (1) Amend as follows:

5 5 Land occupied by the owner and unoccupied land shall be assessed against the owner.

s.s. (2) Delete. Included in s.s. (1).

s.s. (3) Amend as follows:

8 9 Land occupied by any person other than the owner shall be assessed against the owner, if known, and against the tenant.

s.s. (4) Delete. Included with s.s. (3).

s.s. (5) Amend as follows:

Where the name of the owner cannot be ascertained, the assessor shall insert the words "owner unknown" in the column of the assessment roll for the name of the owner opposite the description of the land.

s.s. (6) Amend as follows:

Where land is owned by more persons than one,

(a) if the land is occupied by any person other than the owners, it shall be assessed against the tenant and against such of the owners as are known, and

(b) if occupied by any of the owners or if unoccupied, it shall be assessed against all the owners who are known.

s.s. (7) Amend as follows:

Where land is assessed against the tenant under subsection (3) or (6) the tenant, for the purpose of imposing and collecting taxes upon and from the land, shall be deemed the owner.

s.s. (8) No change.

SECTIONS 33 & 34 No change.

Comment

Add new Section 34A as follows:

Move Section 245 to end of Section 34 and call same Section 34A.

SECTION 35

s.s. (1)

The term "actual value" should be defined or another term "value for assessment" should be enacted.

Actual value has been defined by the Supreme Court of Canada as being, "the amount a willing purchaser, not forced to buy, would pay a willing seller, not forced to sell", also, "means exchangeable value, the value actually or theoretically ascertained by the test of competition between a free and willing purchaser and a like vendor" - per Rand, J. Sun Life v City of Montreal (1950) S.C.R. p.246.

Actual value then is the value in exchange at the date or time the assessment is made. As the value of the dollar changes so must the assessment change when assessments are made at actual value.

In Ontario the Assessment Act requires assessments to be made at actual value, the practice, however, has been to appraise or value all property for assessment in terms of the dollar value of a year other than that year in which the assessment is made. In most assessment jurisdictions in Ontario the value year has approximated the year 1940. Valuations for assessment have been made in terms of the value of the dollar for the year 1940. Thus it is found in a study of assessment values in terms of actual values the assessment values are only one third of actual values.

The term actual value has been considered by most assessors in Ontario to be "the comparable value for assessment" computed in terms of a definite base year in which the dollar value is reasonably stable.

The base year of 1940 has served its purpose and should be altered to a more recent one to make assessment valuations more realistic with present day actual values.

It is suggested that the year 1960 be enacted as the base year for value of the dollar for making valuations for assessment.

We suggest the following definition for value for assessment purposes, subject to the provisions of this Section: "Land shall be assessed at a value for assessment, this value to be at a realistic value year, and made applicable in all municipalities."

s.s. (2) The term rental value should be defined.

s.s. (3) Needs clarification, or delete.

s.s. (3a) No change, but delete if Subsection 3 is deleted.

s.s. (4) After the words "circumstance affecting the value", delete the words "and the value of the buildings shall be the amount by which the value of the land is thereby increased." These words are redundant to the subsection.

s.s. (5) to (14) inclusive. No change.

s.s. (15)(16) and (17). Delete.

SECTIONS 36, 37 & 38 No change.

SECTION 39 Delete.

SECTION 40

- s.s. (1) Add, in line 1 after the word "by", "subclause (1V) and", so that it will read, "The property by subclause (1V) and subclause (V) of clause i of Section 1 declared to be land"
- s.s. (3) Delete - Assessor has no knowledge of another Municipalities assessments.
- s.s. (6) NEW.
On or before the 31st day of March in every year, persons or companies carrying on business under this section shall notify the clerk or the assessment commissioner of each local municipality of all assessable property owned by such person or company which is located in the municipality, in particular the length and diameter of all pipelines, all valves, meters, stops, regulators, services, producing gas wells and oil wells.

SECTION 41

- s.s. (1) (c)(i) Delete the words valves, regulators, meters.
(c)(v) After the word terminal add the words "or valves, regulators, meters, compressor stations."
- s.s. (2) Repeal and re-enact as follows:
Transmission pipelines are pipelines owned by persons or companies whose primary business is the transmission of gas or oil.
- s.s. (5) Revise rates to realistic values or delete.
- s.s. (6) Repeal and re-enact as follows:
A pipeline shall be assessed for taxation at the revised rates set forth in subsection 5 and shall be depreciated at the rate of 2 per cent per annum of the assessed value of the pipelines with a maximum of 50%.
- s.s. (7) Repeal and re-enact:
The valuation for assessment shall be adjusted so that the value year used for pipeline ratings is equalized with the value year used in assessing other types of property.

SECTION 42 No change.

SECTION 43

s.s. (3)(4) and (5)

Revise so it is stated in clear terms that land, buildings and business are assessable and rateable. In effect Commissions are doing so now but the wording is confusing.

s.s. (7)(8) Delete, as unnecessary when (3)(4)(5) are revised.

SECTION 44

Amend as follows:

Any bridge or tunnel which belongs to or is in the possession of any person, bridge or other authority or incorporated company, and which crosses any river or other body of water forming the boundary between Ontario and any other country or province, the part of such structure within Ontario shall be valued as an integral part of the whole and on the basis of the valuation of the whole, and shall be assessed at its actual value in accordance with Section 35.

SECTION 45

Amend as follows:

Any bridge or tunnel which belongs to or is in the possession of any person, bridge or other authority, or company between two municipalities in the Province shall be valued as an integral part of the whole and on the basis of the valuation of the whole, and shall be assessed at its actual value in accordance with Section 35.

SECTION 46

s.s. (1) Amend as follows:

Every railway company other than those defined as public utilities in the Department of Municipal Affairs Act shall transmit annually on or before the 1st day of February to the assessment commissioner, assessor, or if none, to the clerk of the municipality in which any part of the roadway or other real property of the company is situate, a statement showing.

s.s. (1)(a)(b)(c)(d) No change.

s.s. (2)(a)(b) No change.

s.s. (2)(c) Amend as follows:

Stations, freight sheds, offices, warehouses, elevators, hotels, round-houses, express buildings, railway, Y.M.C.A. buildings, bunkhouses, ice-houses, diesel oil storage tanks, coal sheds, machine, repair and other shops shall be assessed in the manner provided in Section 35 subsection (4).

s.s. (2)(d) No change.

s.s. (3) Amend as follows:

Notwithstanding anything in this Act, the structures, sub-structures, superstructures, rails, ties, poles, wires and other property on railway lands and used exclusively for railway purposes or incidental thereto (except those structures listed in subsection (2)(c) shall not be assessed.

s.s. (4) Amend as follows:

The assessor shall deliver at, or transmit by post to the head office of the company a notice, of the total amount at which he has assessed the said land and property of the company in his municipality or ward showing the amount for each description of property mentioned in the above statement of the company, and the statement and notice respectively shall be held to be the assessment return and notice of assessment required by Sections 17 and 48.

s.s. (5) No change.

SECTION 47 Delete.

SECTION 48

s.s. (1) Amend as follows:

Add after word "delivery" in last line "and where the assessment notice is not prepared by mechanical means it shall be written in ink."

s.s. (2)(3)(4) No change.

SECTIONS 49 & 50 No change.

SECTION 51 Amend as follows:

It shall be the duty of the clerk to report to the court of revision the facts and particulars as to any errors or omissions in the assessment roll of which he, or any other municipal official may from time to time become aware, and the court of revision shall thereupon take such steps as the court shall deem advisable and necessary to cause such corrections to be made in the roll, and shall give such notice to persons interested as such corrections may render necessary.

SECTION 52 No change.

SECTION 53

s.s. (1) Amend as follows:

After the first day of January and before the twenty-eight day of November the assessor shall prepare and certify a supplementary assessment roll and the clerk of the municipality shall enter in the collector's roll,

s.s. (1)(a) Add after "buildings" or land as defined in Section 1 Subsection (1)(i)(iv) & (v).

s.s. (1)(b)(c) No change.

s.s. (2)(3)(4)(5)(6) No change.

SECTION 54

s.s. (1) Amend as follows:

After the return of the assessment roll and on or before the 31st day of December in any year the assessor shall prepare and certify a supplementary assessment roll to be returned to the clerk of the municipality which contains,

s.s. (1)(a) Add after "buildings" or land as defined in Section 1 Subsection (1)(i)(iv) & (v).

s.s. (1) (a)(b)(c) Amend as follows by removing words "as certified by assessor." Not necessary if s.s. (1) is amended.

s.s. (2)(3)(4) No change.

SECTIONS 55, 56, 57 & 58 No change.

SECTION 59

s.s. (1) Amend as follows:

Add after "roll" in the first line the words "or a supplementary assessment roll."

SECTIONS 60, 61 & 62 Delete.

SECTION 63

s.s. (1) Amend as follows:

Delete in the first line after the word city "having a population of not less than 200,000 in lieu of a court of revision being constituted as provided in Section 62."

s.s. (2) No change.

s.s. (3) Amend as follows:

Delete in the first line after the word is "or during the preceding year was."

s.s. (4)(5) No change.

s.s. (6) Amend as follows:

Delete in the second line after the word repealed "and while it is in force no court of revision shall be constituted or continue in existence under Section 62."

SECTION 64

s.s. (1) Amend as follows:

In municipalities other than cities the court of revision shall consist of three or five members appointed by the council of the municipality and such members may be paid such remuneration and expenses as the council may by by-law provide.

s.s. (2) Amend as follows:

Every such member shall be a person eligible to be elected a member of the council, but no person who is a member of the council or an officer or employee of the municipality may be appointed or hold office as a member of a court of revision.

s.s. (3) Amend as follows:

A majority of the court of revision shall be a quorum and a majority of a quorum may decide all questions before the court, but no member shall act when an appeal is being heard respecting any property in which he is directly or indirectly interested.

SECTION 65

s.s. (1) No change.

s.s. (2) Amend as follows:

Such court of revision shall consist of three or five members to be appointed by the council of the county and such members shall hold office during pleasure of the said council and shall be paid such remuneration and expenses as the said council may by by-law provide.

s.s. (3)(4) No change.

SECTION 65a No change but suggest Section 64 could be applicable to Counties.

SECTION 65b No change.

SECTIONS 66, 67, 68, 69 & 70 No change.

SECTION 71 Amend as follows:

Any person summoned to attend the court of revision or before a county judge under the provisions of this Act as a witness who fails without good and sufficient reason, to attend, having first been tendered compensation for his time at the existing witness fees and his proper travelling expenses if he resides more than three miles from the place of trial, or who having attended, or being present in court, refuses to be sworn, if required to give evidence, shall be guilty of an offence and liable to a penalty of not more than \$25.

SECTIONS 72, 73 & 74 No change.

SECTION 75

s.s. (1)(2)(3)(4) No change.

s.s. (5) Amend as follows:

Add after words "all persons appealed against" in the second line, "and to the assessment commissioner or, if none, to the assessor, and to the county assessor, in any appeal which lies within his jurisdiction."

s.s. (6) No change.

s.s. (7) Amend as follows:

Add after "municipality" in the first line "or some person or persons designated by him."

s.s. (8) to (13) inclusive. No change.

SECTIONS 76 to 93 inclusive. No change.

SECTION 93a Should be rewritten in the light of common experience and application.

SECTION 94

s.s. (1) No change.

s.s. (2) Amend as follows:

Where in the preceding year a mining municipality has received or become entitled to a payment under the regulations made under Section 36 an amount shall be calculated by,

(a) multiplying such payment by 1000; and

(b) dividing the product obtained under clause (a) by the aggregate of the mill rates for county, general and school purposes levied in that year by the municipality on the types of assessments mentioned in clauses (a), (b) and (c) of subsection 2 of Section 294 of The Municipal Act; and

(c) increasing or decreasing the quotient obtained under clause (b) by the same per cent as the aggregate valuations of such municipality made in that year are increased or decreased under subsection (1)

and for the purpose of county rates the amount obtained under clause (c) shall be added to the aggregate valuations of the municipality as increased or decreased under subsection (1).

- s.s. (2) (d) For the purposes of paragraph (b) mill rates for (i) "county purposes" shall mean the mill rate required to be levied for all county purposes, (ii) "general purpose" shall mean the mill rate levied for the purposes of the council but shall not include mill rates levied for local improvements, water, sewer, or other special purposes, (iii) "school purposes" shall mean the mill rate levied for all public school purposes including principal and interest for payment of debentures issued, and the mill rate levied for all high school purposes including principal and interest for payment of debentures issued.

s.s. (3)(4) No change.

SECTION 95 No change.

SECTION 96

- s.s. (1) Amend as follows:
The municipality so dissatisfied may appeal from the decision of the council at any time within twenty days after passing of such by-law, by giving to the clerk of the county council notice in writing.
- s.s. (2) Delete.
- s.s. (3) Delete words "in case any party to the appeal has objected to the final equalization of the assessment being made by the county judge."
- s.s. (4) No change.
- s.s. (5) Delete.
- s.s. (6) No change.
- s.s. (7) Amend as follows:
The persons appointed to form a court shall be paid such remuneration and travelling and other expenses as the Lieutenant Governor in Council may determine to be borne and paid as directed by the Court.
- s.s. (8) Amend as follows:
The fees of the stenographic reporter, if any, and any other expenses incidental to the hearing of the appeal shall be borne and paid as directed by the court.
- s.s. (9) No change.
- s.s. (10)(11)(12) Delete.
- s.s. (13) Delete in last line the words "or judge as herein provided."

s.s. (14) Delete in the third line the words "the county judge or".

s.s. (15) Amend as follows:

An appeal lies to the Court of Appeal from any report made by a court constituted under paragraph 4 on any question of law or the construction of a statute and if the judgment of the Court of Appeal reversed or varies the report of such court, such judgment or report shall be varied so as to conform to the judgment of the Court of Appeal.

s.s. (16) No change.

SECTIONS 97 to 109 inclusive. No change.

SECTION 110

s.s. (1) No change.

s.s. (1a) New.

Where the collector's roll is not prepared by mechanical means it shall be written in ink.

s.s. (2)(3)(4)(5)(6) No change.

SECTIONS 111 to 114 No change.

SECTION 115

s.s. (1) Amend to read as follows:

Add after the word "taxes" in the last line the words "and where the tax notice is not prepared by mechanical means it shall be written in ink."

s.s. (2)(3) No change.

SECTIONS 116, 117 & 118. No change.

SECTION 119 Amend to read as follows:

Delete in the second line the words "25 cents" and insert the words "one dollar."

SECTIONS 120 to 130. No change.

SECTION 131

s.s. (1)(d) Amend to read as follows:

In respect of a building which was razed or structurally damaged by fire, or razed by demolition or otherwise during the year; or

s.s. (2) to (12) inclusive. No change.

s.s. (13)(i) Add new clause (i).

"a building or part of a building which has been built solely for the purpose of sale or rent, unless such building has been vacant for a period of not less than twelve months."

s.s. (14) No change.

Move Section 244 to end of Section 131 as s.s. (15) and amend to read:

"Notwithstanding the provisions of Section 131 (2) (3)(5) where a treasurer and an auditor ascertain that certain taxes are uncollectable they shall recommend to the court of revision that such outstanding taxes be struck off the collector's roll, and the court of revision may direct the treasurer to strike such taxes from the roll."

SECTIONS 132 to 215 inclusive. No change.

SECTION 216

s.s. (1) No change.

s.s. (2) Amend as follows:

This section shall not prevent disclosure of such information by any person when being examined as a witness for the defence only, in an assessment appeal or in an action or other proceeding in a court or in an arbitration, but this information shall not be disclosed until the appellant has presented his case.

SECTIONS 217 to 243 inclusive. No change.

SECTION 244 Delete. Reword and add at end of Section 131 making same s.s. (15) of Section 131. *OK 22/1/11*

SECTION 245 Delete and add after end of Section 34 making same 34a.

SECTION 246 No change.

FORM 3 Affidavit - Delete present clause 4 and substitute the following:

I have delivered or caused to be delivered all assessment notices relative to any assessments in this assessment roll in accordance with the provisions of The Assessment Act.

N.B. The Assessment Act should be set up in two parts -

Part 1 - Pertaining to assessment.

Part 2 - Pertaining to taxation.

MUNICIPAL ACT

Chapter 249. R.S.O. 1960.

SECTION 225 & 239.

At present Section 225 provides for the appointment of assessors by by-law which remains in effect until repealed. Section 239 provides that the assessor and other officials shall hold office during the pleasure of council.

Young men investigating assessment as a career are reluctant to enter thereupon when they face the condition of dismissal without cause or reason.

It is suggested that Section 239 be amended to provide that a council of a municipality shall not dismiss an assessor or other official without just cause being shown as to his incompetence to perform his duties, lack of personal integrity, or by reason of his unseemly moral conduct.

*Association of Assessing Officers
of Ontario - presented at
meeting held on July 5th, 1962*

RESOLUTION

Whereas it is an established fact that most of the revenue required to operate a municipality is derived from the assessment of that municipality;

And Whereas it is essential to the municipality and the ratepayers thereof that the person placed in charge of such assessment be experienced, capable and qualified to produce and maintain an equitable assessment without fear or favour;

And Whereas this object has not always been attained by reason of the provisions of Sections 226 and 239 of the Municipal Act whereby appointments of assessors by Councils remain in effect until repealed and assessors shall hold office during the pleasure of Council;

And Whereas the efficiency of the assessor may be hampered by unwarranted interference and lack of security;

Therefore, be it resolved that the Association of Assessing Officers of Ontario request the Legislature to provide some measure of protection to the assessor and the ratepayer by amending Sections 226 and 239 of the Municipal Act to conform in principle to the provisions of the Public Health Act, Sections 34 and 37 respecting Medical Officers of Health, as follows:

1. Section 226 to be amended by adding the following:

"(7) The council of every municipality shall appoint a properly qualified assessor to be the assessor, assessment commissioner or county assessor and every such appointment is subject to the approval of the Minister.

(a) Proper qualification shall require such requisites as are prescribed by the Minister, but should include a minimum of five years general experience in assessment or related fields, membership in the Institute of Municipal Assessors, or graduation from a three year course of study for assessors as provided by Queen's University at Kingston or other Universities.

(b) The Minister may waive any of the required qualifications to permit appointments on a temporary basis. Such temporary appointments not to extend beyond a period of five years and to be approved annually."

(NOTE: This would provide a temporary appointee sufficient time to obtain the proper qualifications required by (a).)

"(8) Every assessor, assessment commissioner or county assessor appointed by the council shall hold office during good behaviour, and shall not be removed from office except on a two-thirds vote of the whole council and th the consent and approval of the Minister, who may require cause to be shown for the dismissal."

2. Section 239 to be amended by adding at the beginning thereof, the words:

"Except as provided by Section 226 (8),-"

Be it further resolved that a copy of this resolution be forwarded to the Ontario Association of Mayors and Reeves for their endorsation.

ASSOCIATION OF CANADIAN DISTILLERS

The Chairman
Select Committee on the Municipal Act and Related Acts
Room 377
Parliament Buildings
Toronto, Ontario

Dear Sir:

On behalf of the alcoholic beverage distilling industry, may I express sincere appreciation of this opportunity to state our views on the Assessment Act R.S.O. 1960, Chapter 23, Business Tax, with particular reference to Section 9.

Many times since 1951, our Counsel, Mr. Peter White, Q.C., has made representations on behalf of our Association to various Ontario government authorities in respect of the discrimination in the Assessment Act which provides a rate of 150 per cent of the assessed value for distilleries, compared with a rate of 60 per cent for nearly all other manufacturing industries.

Mr. White has submitted to you a brief which states our case in detail. The purpose of this submission is to supplement our Counsel's brief and we will of course be happy to answer any questions which you and your colleagues may care to raise concerning our industry.

Our Counsel's brief contains statistics which indicate the economic importance of our industry to Ontario where 12 out of the 28 distilleries in Canada

.../are located

are located, including investment, payroll, value of purchases and output. We wish to add that in the past decade our member firms have invested \$75 million in Canada for expansion and modernization, a major portion of which has been spent in Ontario. Further, the value of our exports, now over \$80 million annually, is obviously of great importance to the economy of the entire nation and to Ontario in particular from which a good portion of these exports emanate.

Through Counsel, we have stated that we believe distilleries should pay business taxes on the same basis as other manufacturing industries. Here are three reasons why:

- (i) Insofar as municipal services and benefits are concerned, a distillery expects, requires and receives no more than any other manufacturing plant which pays less than one half of the amount paid by the distillery toward the cost of those services and benefits. It seems grossly unfair that Ontario distilleries would pay less than half of the amount of municipal business taxes they are now paying if they were to convert their plants to produce soft drinks, cosmetics, T.V. sets or some other non-alcoholic luxury product.

.../(ii) When the

(ii) When the business tax was introduced in Ontario in 1904 it is possible that the profitability of the Ontario distilleries was sufficiently higher than other manufacturers' to justify the exorbitant rate of 150% of assessment. If it were so at that time, it certainly is not so today. Although export sales volume has grown in recent years, now accounting for over one half of the output of Canadian distilleries, our business with Canadian Liquor Boards has been far from satisfactory in the past ten years. Since World War II price controls were lifted, the retail prices of our products have been raised many times by federal and provincial taxation. This rash of tax-price increases which in the past year seems to have reached epidemic proportions, has carried liquor prices to the point of diminishing returns, and beyond it in some provinces.† To show the extent to which taxation has affected the retail prices of our products, we are enclosing (Appendix A) a schedule showing the complete history of pricing since 1939 of a popular brand of Canadian rye whisky in Ontario. Because they pay such high retail prices for our products, most people seem to have the impression that distillers must be well off. Appendix B shows the distribution of the money paid by the consumer,

.../at an average

at an average price for all Canada, for a typical 25 oz. bottle. It will be seen that the distiller today receives on the average less than 17 cents out of the consumer dollar spent for whisky in a government liquor store.

There has been a steady decline in the earnings of Canadian distillers from domestic operations in recent years for the following reasons:

- (a) With each increase in retail prices in the past decade, more and more consumers have switched from high to low-priced brands which are less profitable for the distiller.
- (b) In several provinces the sale of our products has been retarded and in two instances gallonage has actually declined, following retail price increases.
- (c) Increasing costs of materials and labour have pushed the distiller's break-even point steadily higher.
- (d) Due to the Liquor Board mark-up system, and with retail price levels considered to be already near or beyond the point of diminishing returns, the distiller's selling prices have been virtually 'frozen'. After tax, earnings of Canadian distillers from goods produced and sold in Canada last year showed a return on the

capital employed to manufacture, mature and ship those goods that was less than the 5% yield of a good pension fund.

(iii) We submit that social habits and mores have changed to such an extent that today there is no justification whatsoever for discrimination against distilleries, as compared with other manufacturing plants, in respect of business tax assessment. A generation ago, our industry carried the burden of harsh legislation and taxation as a result of the efforts of minority groups seeking to place the status of the consumer of our products closer to social ostracism than to first-class citizenship. Today, with the broadening of the Liquor Control Acts providing licensed premises and many more retail outlets throughout the country, 70 per cent of the adult population are recorded by public opinion poll as consumers of our products. We contend that it is grossly unfair to the shareholders of our member firms (now over 60,000 in Canada) and to the many thousands of employees in our plants and our supply firms, for our industry to have to continue to carry a burden of taxation at all levels that is so far out of proportion to the taxation of other widely-accepted luxury products.

.../To sum up

To sum up, we have endeavoured to indicate that the twelve distilleries operating in Ontario are perfectly normal manufacturing plants in every respect and particularly insofar as the municipalities are concerned. They are unique only in that they are suffering from the cost-price squeeze on profits much more than most manufacturers because of the onerous taxation of their products by provincial and federal governments.

We would like to extend a most cordial invitation to you, Sir, and the members of your Committee, to visit one of the Ontario distilleries. On the premises, by showing you the intake of raw materials, the processing and materials-handling equipment, the employees at work and the output of finished products, we believe it would be easier for us to demonstrate that the operation of a distillery is basically the same as the operation of all other manufacturing or processing industries.

We therefore urge you to adopt the recommendation of the Canadian Manufacturers' Association, as outlined in our Counsel's brief, that distillers be assessed on the same basis as all other manufacturers. At the same time we heartily endorse the proposal submitted by our Counsel that there be a flat rate for all businesses based on the assessed value of premises.

Respectfully submitted,

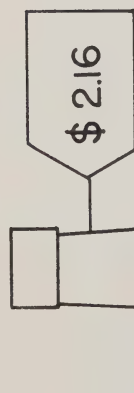
J. M. McAVITY
President

May 24, 1962

SHOOT
FOLDOUT
HERE

DISTRIBUTION OF AVERAGE RETAIL PRICE ACROSS CANADA OF A TYPICAL CANADIAN RYE WHISKY

1938



FED. GOVT. \$.56

PROV. GOVT. \$.93

DISTILLER \$.63

FREIGHT \$.04

1961



FED. GOVT. \$ 1.66

PROV. GOVT. \$ 1.97

DISTILLER \$.76

FREIGHT \$.09

July 18, 1962

WHITE, BRISTOL, BECK & PHIPPS
BARRISTERS & SOLICITORS

FREDERICK A. BECK, Q.C.
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TELEPHONE EMPIRE 4-1225

335 BAY STREET
TORONTO 1, CANADA

July 17th, 1962.

Mrs. H.G. Rowan,
Secretary,
Select Committee on the Municipal
Act and Related Acts,
Room 377,
Parliament Buildings,
TORONTO 5, Ontario.

Dear Mrs. Rowan,

Re: Association of Canadian Distillers
Re: Business Assessment

I am now instructed as follows.

1. As to comparable taxation in other provinces:

In British Columbia (where there are now four licenced distillery plants) business tax is paid on a percentage of annual rental valuation regardless of the type of business - no discrimination against distillers.

In Quebec business tax is levied on a percentage of annual rental value and applies to all businesses regardless of type. All municipalities, except those established under Special Charter derive their taxing powers from the Cities and Towns Act, of which article 526(a) permits the levy of a business tax up to 10 per cent of the annual rental value, with a limit of \$5,000.00. There is no discrimination against distilleries.

Alberta, Manitoba and Newfoundland also employ the annual rental value basis - uniform regardless of type of business.



In Saskatchewan, business tax is based on the area of business premises, and in certain larger municipalities of Nova Scotia and New Brunswick, the basis used is a percentage of property assessment. In no case is there any discrimination against distillers.

2. As to comparable taxation in the United States:

There is no municipal business tax, or any comparable business tax in any municipality in the United States - at least in 16 cities and towns where distilleries are located.

I am hopeful of supplying you with figures on keg, barrel and/or other storage which as you know is all assessed for business tax purposes on the 150% basis.

Yours faithfully,

WHITE, BRISTOL, BECK & PHIPPS

Per: 

W.E. Brandon

The Chairman,
Select Committee on The Municipal Act and Related Acts,
Room 377,
Parliament Buildings,
TORONTO, Ontario.

Re: The Association of Canadian
Distillers and The Assessment
Act, R.S.O. 1960, Chapter 23,
Section 9. Business Tax.

Acting for the above Association, we have since 1951 made representations and submitted Briefs which have been designed to demonstrate serious and unreasonable inequities in the business assessment provisions of The Assessment Act and have been designed to assist in curing the same. Those with whom we have corresponded and before whom we have appeared include the Association of Assessing Officers of Ontario (April, 1951), the Provincial Municipal Relations Committee headed by H.J. Chater, Esquire, (June, 1953), the responsible Minister and his Deputy, the late W.E. Brandon, Esquire, Q.C., M.L.A. the Association of Ontario Mayors and Reeves, and the Municipal Advisory Committee, Department of Municipal Affairs (December, 1956). The purpose of the submissions herein is identical.

The objectionable aspects of Section 9 of the Act are as follows:

1. Under Section 9 (1) of the present Act, every person occupying or using land for the various purposes enumerated in the several subsections thereof, is assessed for business tax. Notwithstanding that many businesses enumerated therein are essentially similar, the rates of assessment vary from a high of 150 per cent of the assessed value of the land to a low of 10 per cent thereof. As a result, many inequalities in taxation have arisen and continue to exist.

2. In its present form Section 9 consists of a series of special cases and makes special exceptions even to these. For example, a rate of 75 per cent applies to businesses assessed under subsection (c) of subsection (1), whereas the rate is only 25 per cent for those businesses which qualify under subsection (k).

If these special cases and exceptions ever had logical or reasonable origins, they have long since been obscured by modern conditions, and to-day the classifications made so long ago are entirely unsatisfactory and inequitable. There is no reason to-day, for example, why hotels should be assessed at a rate of 25 per cent while rooming houses are not assessed at all for business purposes. Further inequities exist where concerns maintain separate offices for sales or administration purposes or segregate sales and administrative offices from other portions of a building also used for other purposes, or as is common practice to-day, where a company sets up a separate company for sales or administrative purposes. Where this is done, premises or portions of premises used for sales or administrative purposes only may be and frequently are assessed under the present Act at a variety of different rates.

Further, many varieties of business commonly carried on to-day do not appear to fit into any category referred to in the Act. As an example, we suggest that it would be most difficult to determine the applicable rate in the case of a holding company which controls several companies engaged in a variety of businesses but which (as is usually the case) is active in the management of its various component subsidiaries through its own directors who

are also directors of the subsidiaries.

3. Assessing officers are not provided by the Act with a logical or all inclusive code, nor are all industries categorized specifically therein. As a result, the rate for business assessment is in some cases determined merely by the interpretation of the local assessing officer. The assessing officer in one community may (and we are informed that this does occur) place an industry in one category for business assessment where his counterpart in another area may, simply by placing another interpretation on the Act, place the same industry in another category, to which a different rate may apply. We suggest as examples that an assessing officer would have difficulty in determining the rate applicable to persons or corporations carrying on business as garages (i.e. doing repairs, selling petroleum and other products and renting space for cars), engravers, holding companies, owning or managing apartment or office buildings, foundries, taverns (with or without entertainment) or public houses - just to mention a few occupations not specifically referred to in the Act. We are further informed that two companies transmitting oil and gas have been assessed at different rates merely because one of the companies manufactured as well. The inequities in situations such as these are obvious.

4. The municipal business tax is burdensome for most manufacturers and is considered by some already to be high both from the point of view of municipal benefits received by manufacturers and their ability to pay. This is especially so in the case of the members of the distillers association, as the rate applicable to their operations under sub-section (1) (a) of Section 9 is 150 per cent of the

assessed value of their lands, a figure at least twice as high as the rate for any other business. In a written brief dated October 8th, 1953 addressed to the Ontario Provincial Municipal Relations Committee, the Canadian Manufacturers Association among other recommendations, adverted especially to brewers and distillers and stated that they should pay the same business tax as any other manufacturer.

The distilling industry is an important one to this country and to this Province, long recognized as a part of the ordinary manufacturing and industrial life of this Province. The importance of the distilling industry in the tourist trade is also well recognized and this of course also constitutes a hidden export of great help in maintaining national trade balances. If there ever was, there no longer is any reason why the distilling industry should be treated as the illegitimate child of a century ago.

5. That the distilling industry is one of national importance, and particularly important to the Province of Ontario finds strong factual support. Exports of Canadian whisky are running at about \$80 million a year, most of which emanate from Ontario. Whisky is second only to farm machinery as a fully manufactured export product.

Most recent Dominion Bureau of Statistics figures show that the 12 distillers in Ontario employ nearly 2,200 Ontario men and women. Their salaries and wages approximate \$10 million a year. Distilling companies have a heavy investment in Ontario. Inventories alone were in excess of \$58 million at the end of 1959. Value of the industry's production in Ontario is close to \$100 million a year. Total

purchases of materials used for distilling exceed \$15 million a year; bottles, cases, cartons, closures, etc. come to nearly a further \$18 million a year. There are side effects on the general economy as well such as the employment of advertising concerns, the continuing development of new types and designs of packaging and labels and active participation on an industry wide basis in many levels of public and charitable endeavours.

Federal excise duty is now \$13 per proof gallon on Canadian spirits and yielded \$102.4 million in fiscal 1960. Gross profits on sales of spirits, wine and beer by the Liquor Control Board of Ontario amounted to \$68,275,623.64 in the fiscal year 1960. Spirits accounted for 81.9 per cent (about \$140 million) of total L.C.B.O. sales.

6. It seems clear that The Assessment Act should be amended with a view to simplifying assessment, making a new statute more workable, and levelling the incidence of business tax upon premises or portions of premises used essentially for similar purposes. The following points are presented for your consideration:

- (1) It is of interest to note that there has been no development of a business tax in the United States such as is found in most Canadian municipalities.
- (2) Three bases of assessment for business tax are used in Canada:
 - (i) A fraction of the property assessment;
 - (ii) An annual rental value of premises occupied for business purposes; and

(iii) The area of such premises.

The annual rental value of the premises is used in Quebec, Manitoba, Alberta, British Columbia and in St. Johns, Newfoundland. The area of the business premises is used as the basis for business tax in the cities, towns and villages of Saskatchewan. A fraction of the property assessment is employed as the basis for the business tax in Ontario, in Halifax, Nova Scotia and in Fredericton, New Brunswick. In Saint John, New Brunswick a business tax based on a fraction of the property assessment is applied to nearly all categories of business.

- (3) Rates of tax in Canadian municipalities vary widely, and range from a uniform flat rate for all business, a broad classification of businesses with rate differentials, to a narrow classification with many different rates.
- (4) In 1890, Ontario municipalities were given the option by the Provincial Legislature of imposing on mercantile concerns, either a personal property tax or a business tax based on the annual value of premises occupied for business purposes. Between 1890 and 1904 (when Ontario municipalities were permitted to levy a business tax) not one municipality imposed a business tax.
- (5) In 1900, the Ontario Government appointed a Royal Commission under the Chairmanship of Mr. Justice James MacLennan to recommend amendments to municipal tax laws. In 1902 this Royal Commission recommended, among other things, a business tax to be levied at a flat rate of 7

per cent on assessed value of all business premises.

(6) The Ontario Government appointed a Special Committee of the Legislature to consider the report of the Royal Commission. The Committee deviated from the Royal Commission's findings and recommended that all Ontario municipalities be required to levy a business tax and that the assessment be determined by taking different fractions of the property assessment for different types of businesses, rather than using the flat rate recommended by the Royal Commission.

(7) The business tax as introduced in Ontario in 1904 has remained with very few amendments down to the present time, and assessment rates range from 10 per cent up to 150 per cent on distillers.

7. (1) The present method of assessing business tax in Ontario is obsolete, costly to administer and grossly unequal in its incidence. Dr. J.R. Petrie, a recognized Canadian tax expert, who was Chairman of a Commission to investigate taxation in the City of Fredericton, reported in 1947 when he made a detailed examination of the municipal business tax in that City "In the case of municipalities which were not levying a business tax based upon earnings prior to 1946, they are now confined to 'a business or occupancy tax based on floor space or on the rental or assessed value of property'. This provision applies,



unfortunately, to the City of Fredericton and the flagrant inequality of such a tax must be perpetuated at least until December 31, 1951". Dr. Petrie condemned the business tax in the City of Fredericton on the basis of value of premises occupied. In the absence, however, of any other acceptable form of business tax because of the then existing Dominion-Provincial tax agreement, he recommended a flat rate for all manufacturers. This recommendation was subsequently adopted by the Provincial Legislature.

- (2) In connection with the present Assessment Act in Ontario pertinent questions may properly be raised. Why, for example, does a distiller pay 150 per cent, a brewer 75 per cent and all other manufacturers 60 per cent? What service does a municipality render a distiller to justify 150 per cent assessment or the 75 per cent on a brewer or wholesaler, that it does not provide the retailer for his 25 per cent? Why does a wholesale merchant pay 75 per cent against 25 per cent for a retail merchant, and why is an ordinary retailer assessed for 25 per cent, while a department store is assessed for 50 per cent? The unequal incidence of this tax is abundantly clear. Historically since several centuries this has been regarded as undesirable.
- (3) The distiller is a normal and legal licensed manufacturer. Distillery products carry by far the heaviest taxation of any consumer goods in Canada. The distiller's business tax in Ontario is double the brewer's, and businesses unspecified in the Act are assessed at one sixth of the distiller's rate,



without regard to the rate of return, the impact on the tax burden or to any logical consideration.

- (4) The tax discrimination against the distiller versus the brewer is unrealistic even on sociological grounds, not to mention economics. The Alcoholism Research Foundation of Ontario reports that consumption of absolute alcohol in spirits is 30 per cent of the total consumption of alcohol. Beer accounts for 64.5 per cent and wine 5.5 per cent.
- (5) Distillers' profits from Canadian sales have been falling steadily since the Federal duty and sales tax increase in the 1959 Budget. Ever increasing Federal and Provincial taxes on spirits have carried the retail price of a low-priced whisky from \$1.80 a bottle in Ontario to \$4.00 a bottle to-day. The distiller, however, has been receiving a steadily smaller portion of the consumer sales dollar. In Ontario to-day, the distiller receives only 19¢ of the consumer dollar spent on a low-priced whisky compared with 34¢ in 1938. The Province now gets 29¢ and the Government of Canada gets 42¢. Out of his 19¢ the distiller must pay his manufacturing costs, the servicing of plant, buildings and equipment, his selling and administrative expenses, as well as taxes and dividends to his shareholders.

8. Two alternative ways to simplify business assessment, reduce costs to the municipalities, make a more workable statute and to remove the existing inequities of the Assessment Act are herewith submitted:

- (i) (and preferably) the assessment could be at a flat rate for all types of business, as recommended by the Royal Commission in Ontario in 1902, and in use now in Vancouver, New Westminster, Calgary, in most of the cities and towns in Quebec and in the major cities of the Atlantic Provinces; or
- (ii) Broad general classifications could be utilized in Ontario which would place all manufacturers, including distillers, in the same classification and tax bracket. We call to your attention the fact that in various Provinces which use such broad classifications, several municipalities have a lower assessment rate on manufacturers than on retailers and wholesalers. For instance, in Fredericton, New Brunswick, manufacturers are assessed at 50 per cent, while chain stores and wholesalers are assessed at 80 per cent. In Winnipeg, manufacturers are assessed at 10 per cent of rental value compared with 14.5 per cent for department and chain stores. In Edmonton, manufacturers are assessed at 6 per cent of rental value compared with 10 per cent for department stores, chain stores and independent retailers. In Ontario on the other hand under existing legislation, manufacturers are assessed at more than twice the rate applied to independent retailers and 10 per centage points higher than department stores.

9. It has been pointed out by an eminent Canadian tax expert, Dr. Robert M. Clark, that "Where, however, the tax is assessed with reference to rental or capital value, it is by no means obvious that classification

of rates is desirable". (The Municipal Business Tax in Canada, Canadian Tax Foundation 1952, page 32). He goes on to say (page 42) "The difficulties of differentiation are, of course, political as well as statistical. In the absence of any generally accepted method of classifying businesses, any classification system politically expedient is almost bound to discriminate against certain types of business".

10. That standardization has many benefits seems to be generally accepted in regard to assessment. This is illustrated by recent steps towards re-assessment which have gone some way at least towards levelling assessments in certain areas across this Province. Recent indications are that this will be carried further at least in the area of Toronto and its suburbs. Our main thesis in regard to business assessments is that these should also be placed on some common basis so that the tax ultimately to be paid falls with even incidence upon premises or portions of premises used for the same purpose, and if the levelling process is generally regarded as being beneficial in regard to real property assessments, then surely this is equally the case in regard to business assessments.

11. In addition to the brief of the Canadian Manufacturers Association dated October 8th, 1953 and above referred to which recommends payment of the same business assessment and tax by distillers and brewers as by any other manufacturer, we further point out that the Board of Trade of Toronto in a written brief dated July 6th, 1953 to the same committee endorsed a flat rate for all businesses based on the assessed values of business premises.

12. Any standardization, whether it takes the form of one flat rate or a few simple categories as above

referred to will result in a big saving in the cost of administration apart from any other benefits. If the present system were carried to its logical conclusion, it is to be noted that in industrial lines alone the Standard Industrial Classification Manual published by the Dominion Bureau of Statistics lists 949 categories with sub-divisions within most of these. To this would have to be added the other classifications of businesses now present in the statute and in the result, the Act would have to provide a complete classification of all businesses and occupations. To say the least, this would not be practicable or desirable.

13. With a view to avoiding such a result and as this was requested by previous committees treating with this matter we have prepared and enclose herewith re-drafts of section 9. In this connection the associations of mayors and reeves as well as of assessing officers have indicated approval of the broad principles above expressed and H.J. Chater has stated in correspondence that "it seems to me lack of uniformity and lack of standardization is a fundamental problem confronting business and the function of government to-day. Those at the technical level in the affairs of the government are quite conscious of this fact and with the permission of our respective ministers are endeavouring to do something about it."

With such general agreement, it is submitted that these broad principles are worthy of acceptance and should be translated into amending legislation, if not in the language of, then at least along the lines of the enclosed drafts,

14. It is respectfully submitted that this Select Committee on The Municipal Act and Related Acts is now in a position and for the above reasons to do the

Province of Ontario a real service by resolving the chaos of the present provisions for business assessment, saving the municipalities substantial costs of administration, assessment and collection, levelling the incidence of this tax and removing the obvious inequities presently existing by causing the relevant provisions to be amended as above suggested.

All of which is respectfully submitted.

WHITE, BRISTOL, BECK & PHIPPS

Per:

Peter White

December 5th, 1961.

PROPOSED AMENDMENT OF SECTION 9 OF THE ASSESSMENT
ACT R.S.O. (1960) CHAPTER 23, DEALING WITH BUSINESS
TAX.

9. (1) Irrespective of any assessment of land under this Act every person occupying or using land for the purpose, of, or in connection with any business or occupation carried on for gain shall be assessed for a sum to be called "business assessment" to be computed by reference to the assessed value of the land so occupied or used by him and at the rate of -- per centum of such value.

(2) Where the amount of the assessment of any person assessable under this section would under the foregoing provisions be less than \$100.00 he shall be assessed for the sum of \$100.00.

(3) Where any person liable to business assessment occupies or uses land partly for the purpose of his business and partly for the purpose of a residence he shall be assessed for business assessment in respect of the part occupied for the purpose of his business only and shall be deemed for the purposes hereof to occupy a minimum of thirty per cent thereof for the purpose of his business.

(4) No subordinate lodge of any registered friendly society and no officers thereof shall be liable to any business assessment in respect of any business of such subordinate lodge.

(5) Where land is occupied or used by more than one person for the purpose of or in connection with any business the total assessed value thereof shall be fairly apportioned by the Assessment Department of the Municipality concerned for the purpose of business assessment among the various persons so occupying or using the

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

1950-1951

PHILOSOPHY 101

PHILOSOPHY 102

PHILOSOPHY 103

PHILOSOPHY 104

PHILOSOPHY 105

PHILOSOPHY 106

PHILOSOPHY 107

PHILOSOPHY 108

PHILOSOPHY 109

PHILOSOPHY 110

PHILOSOPHY 111

land.

(6) No person occupying or using land for agricultural purposes shall be liable to business assessment in respect of such land.

(7) Every person assessed for business assessment shall be liable for the payment of the tax thereon and the tax shall not constitute a charge on the land occupied or used.

PROPOSED AMENDMENT OF SECTION 9 OF THE ASSESSMENT
ACT R.S.O. (1960) CHAPTER 23 DEALING WITH BUSINESS
TAX.

9. (1) Irrespective of any assessment of land under this Act, every person occupying or using land for the purpose of, or in connection with, any business mentioned or described in this section shall be assessed for a sum to be called "business assessment" to be computed by reference to the assessed value of the land so occupied or used by him, as follows:

(a) Every person carrying on the business of a manufacturer

for a sum equal to 60 per cent of the assessed value.

(b) Every person carrying on the business of a

for a sum equal to -- per cent of the assessed value.

(c) Every person carrying on the business of a

for a sum equal to -- per cent of the assessed value.

(d) Every person practising or carrying on business as

for a sum equal to -- per cent of the assessed value, but where a person belonging to any class mentioned in this clause occupies or uses land partly for the purposes of his business and partly as a residence a minimum of -- per cent of the assessed value of the land occupied or used by him shall for the purpose of the business

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assessment be taken to be the full assessed value of the land so occupied or used.

(2) Where the amount of the assessment of any person assessable under this section would under the foregoing provisions be less than \$100.00 he shall be assessed for the sum of \$100.00.

(3) Subject to clause 1 (d) hereof, where any person liable to business assessment occupies or uses land partly for the purpose of his business and partly for the purpose of a residence he shall be assessed for business assessment in respect of the part occupied for the purpose of his business only.

(4) No subordinate lodge of any registered friendly society and no officers thereof shall be liable to any business assessment in respect of any business of such subordinate lodge.

(5) Where land is occupied or used by more than one person for the purpose of or in connection with any business or where one person carries on more than one class of business on the same land the total assessed value thereof shall be fairly apportioned by the Assessment Department of the Municipality concerned for the purpose of business assessment among the various persons so occupying or using the land or among the various classes of business so carried on as the case may be.

(6) No person occupying or using land for agricultural purposes shall be liable to business assessment in respect of such land.

(7) Every person assessed for business assessment shall be liable for the payment of the tax thereon and the tax shall not constitute a charge on the land occupied or used.



W. H. Evans

ASSOCIATION OF ONTARIO MAYORS AND REEVES

OFFICE OF THE EXECUTIVE SECRETARY AND TREASURER - 10 - 31st ST. LONG BRANCH, TORONTO 14, ONT.

SUBMISSION BY
THE ASSOCIATION OF ONTARIO MAYORS AND REEVES
TO
THE SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

3125 Private Bills Since

Confederation

Variation in Tax Sources

Hollis Beckett, Esq., Q.C., M.P.P., Chairman,
and Members of the Select Committee on The Municipal Act
and Related Acts.

REPRESENTATIONS SUBMITTED ON BEHALF OF THE
ASSOCIATION OF ONTARIO MAYORS AND REEVES

INTRODUCTION

At the annual conference of this Association held in the City of London, Ontario, on June 26th, 27th and 28th, 1961, it was decided that representations should be made on its behalf to your Committee. At that conference many resolutions were discussed affecting municipalities and those dealt with in this representation have all been passed at a large representative meeting of the members of the Association.

The Association of Ontario Mayors and Reeves was formed to co-ordinate and centralize the efforts of individual municipalities in dealing with problems common to all local governments in Ontario. One of its main objectives is to obtain an equitable adjustment of the municipal tax structure so that municipal revenues will be used for basic municipal services properly the responsibility of property owners. This year's membership in the Association consists of 30 cities, 90 towns, 32 villages and 90 townships. A large majority of these local municipalities were represented at the conference by their Mayors and Reeves.

1. The first part of the document is a list of the names of the persons who have been appointed to the various offices of the city of New York.

2. The second part of the document is a list of the names of the persons who have been appointed to the various offices of the city of New York.

3. The third part of the document is a list of the names of the persons who have been appointed to the various offices of the city of New York.

4. The fourth part of the document is a list of the names of the persons who have been appointed to the various offices of the city of New York.

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8. The eighth part of the document is a list of the names of the persons who have been appointed to the various offices of the city of New York.

It is not proposed to submit to your Committee all of the matters dealt with at this conference. It is realized that the Legislature has appointed your Committee to inquire into and review The Municipal Act and related Acts for the purpose of modernizing, consolidating and simplifying such Acts and the Regulations made pursuant to these Acts and that the task of your Committee is to make recommendations for their improvement. In order to assist you in this task, the Association of Ontario Mayors and Reeves submits the following recommendations:-

I. THE MUNICIPAL ACT

1. This Association noted with interest the new section 198 (a) added to THE MUNICIPAL ACT at the last Session, to provide for the disclosure by a member of council or a local board of any interest in any matter coming before the council or local board and prohibiting him from taking any part in the consideration, discussion or voting on any question in respect of such matter. This Association recommends that this section should be enlarged to apply specifically to the members of any profession, such as lawyers and architects, who are members of council and will prohibit them from discussing or voting on any matter affecting a client. This Association further recommends that there should be an appropriate penalty for any violation of this section.

2. In giving authority to councils to pass by-laws, their powers are limited by the exact wording of the statute. We believe that councils should be given authority to provide for exemptions in its by-laws and to exercise wide discretion and scope in determining the class or classes of persons in respect of whom the by-law should apply. One example is submitted and it is recommended this particular section be amended.

By paragraphs 3 and 4 of section 400, councils may pass by-laws licensing, regulating and governing photographers who operate on any public highway or in any public place. Such a by-law should except press photographers, television photographers and commercial photographers on specific assignments for local industries and organizations. It is submitted that this authority was not intended to apply to all photographers.

3. It is also recommended that, where a municipality may be required to pay part or all the expenses of any commission of inquiry, of any judicial investigation or any arbitration relating to land or to personnel matters, the Legislature should fix a schedule of fees and expenses that must be paid to presiding officers, other officers and counsel taking part, and further that such schedule of fees should be clearly defined in the Statute relating to the particular matter.

4. The Association recommends that THE MUNICIPAL ACT be amended to make parents of all children responsible for willful damage to public property liable for restitution up to a maximum of \$200 for each offence and with provision for enforcing payment of such restitution.

5. This Association also recommends that the necessary authority be enacted to enable municipalities to pay realty commissions on the sale of publicly owned lands, including industrial lands.

II. THE PLANNING ACT

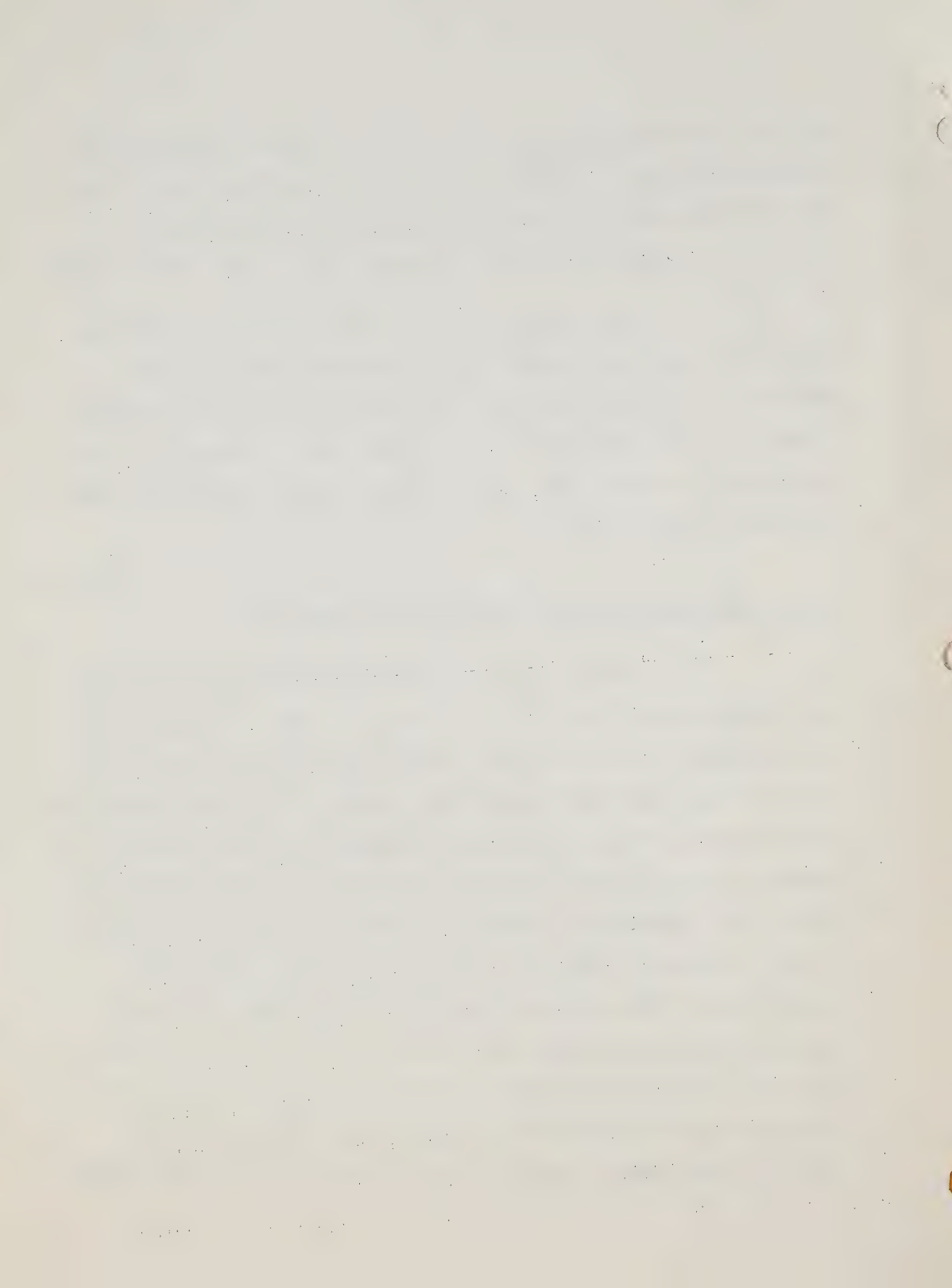
6. This Act has become most important in all municipalities. Since the authority to pass zoning by-laws was removed from THE MUNICIPAL ACT and included in THE PLANNING ACT this latter Act became almost as important in the life of municipalities as THE MUNICIPAL ACT. If a municipality has an Official Plan, it may have a committee of adjustments. This committee of adjustments deals with minor variances from zoning by-laws and it has the right to charge fees of not more than \$25 on every application. It is not suggested that this fee is adequate. There are some large and important applications affecting many people and valuable property where the committee should be able to charge much higher fees. However, because of the limited jurisdiction of the committee by-laws and Official Plans and for the issue of building permits must still be considered by the municipal council or one of its committees.

In those municipalities which have no Official Plan and therefore no committee of adjustments, all applications must be dealt with by the council. There is no provision authorizing a council or a planning board to charge fees on these applications.

This Association therefore recommends that the necessary amendment be made to THE PLANNING ACT or to THE MUNICIPAL ACT to make it clear that municipalities or planning boards, as the case may be, may charge fees to cover the costs involved in dealing with applications to amend restricted area by-laws or Official Plans.

III. THE FACTORY, SHOP AND OFFICE BUILDING ACT

7. Section 78 of this Act gives authority to pass municipal by-laws relating to closing of shops. Councils of cities, towns and villages may require a class of shops to be closed on any week-day at any time between 6 P.M. and 5 A.M., but in addition to this authority, paragraphs 4, 5 and 6 make it mandatory that council must pass by-laws for early closing of shops, for compulsory closing of shops for weekly half holiday or for closing of shops for a weekly holiday. The by-laws passed under these mandatory provisions are open to attack because of their wording and because of the petitions. They are also difficult to amend as new circumstances arise from time to time and difficult to repeal. In addition, there are many shops where trades of two or more classes are carried



on, and it is difficult, in enforcing these by-laws, to establish in court which one of the trades is the principal trade. This Association, therefore, recommends that the mandatory provisions in THE FACTORY, SHOP AND OFFICE BUILDING ACT be repealed and that councils be given wider authority to define the classes of shops affected by the by-law. *How?*
Considered in

IV. THE MUNICIPAL PARKS ACT

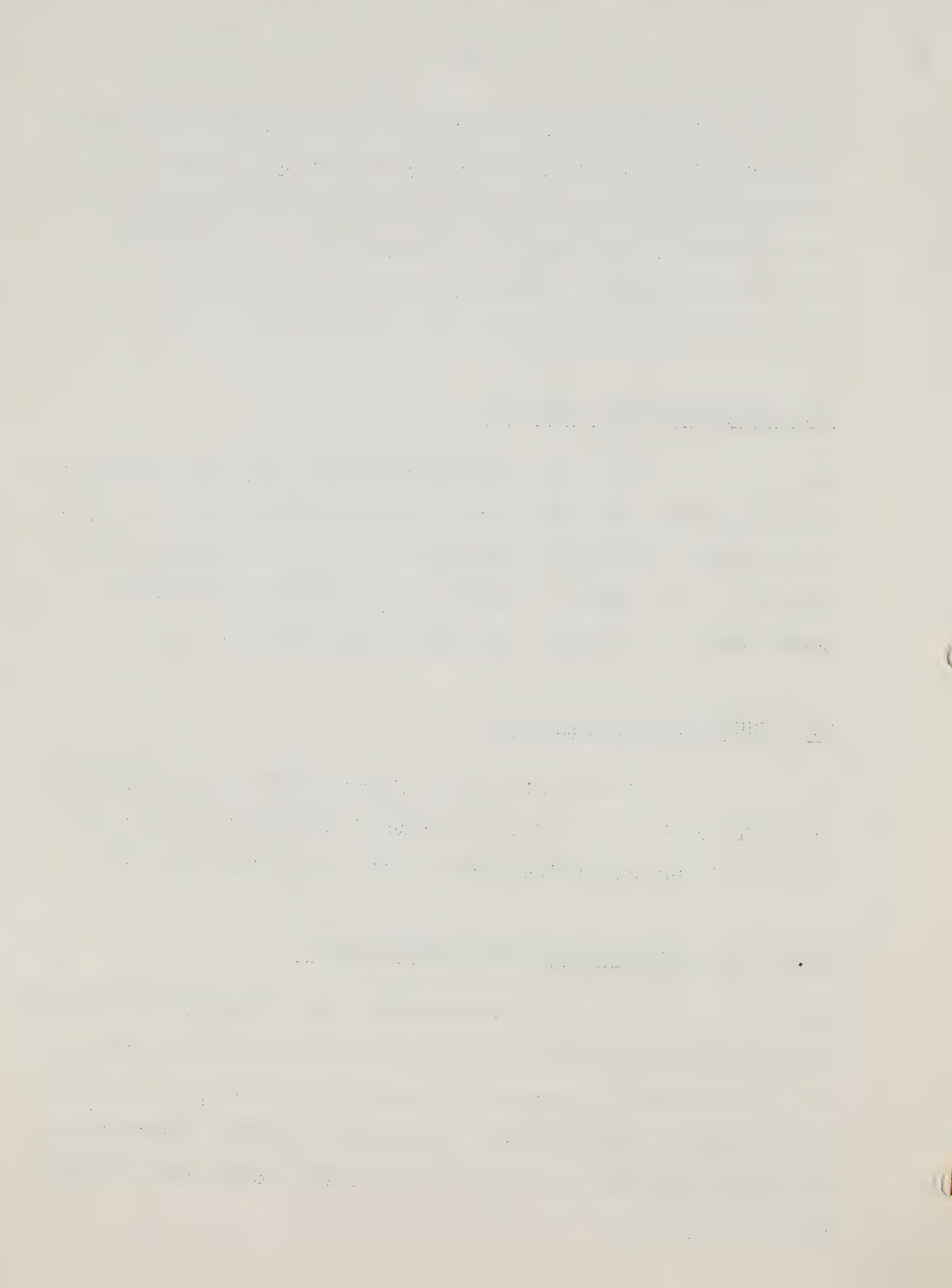
8. There is no Act having this name. The Association is recommending that the various statutory provisions now found in THE PUBLIC PARKS ACT, THE MUNICIPAL ACT, THE HIGHWAY TRAFFIC ACT and in THE COMMUNITY CENTRES ACT, relating to municipal parks should be combined and administered under one Act.

V. THE FIRE DEPARTMENTS ACT

9. The Association further recommends that THE FIRE DEPARTMENTS ACT be amended to exclude a deputy fire chief from the bargaining unit which included full time fire fighters.

VI. THE MUNICIPAL FRANCHISE EXTENSION ACT

10. It is also recommended that THE MUNICIPAL FRANCHISE EXTENSION ACT be amended to permit those persons now entitled to vote at municipal elections for members of council, to vote also for members of school boards, for public utilities commissioners and on all municipal questions and by-laws, except money questions and money by-laws.



VII. THE ONTARIO MUNICIPAL BOARD ACT

11. While this Association was pleased to see the appointment of two additional members on The Ontario Municipal Board recently, it is still considered that the composition of the Board is insufficient to deal expeditiously with the many applications presented to it. This Association is in favour, not only of increasing the membership of The Ontario Municipal Board, but also of reviewing its procedures with a view to expediting the work of the Board and this Association further submits that your Committee recommend to the Legislature and the Government that it refrain from approving the addition of further duties and responsibilities by the Board until its membership has been increased and the procedures relating to applications improved.

VIII. THE ASSESSMENT ACT

12. This Association also recommends that section 13 of THE ASSESSMENT ACT should be repealed. This section provides a limit of taxation equal to 5% of the total of the gross receipts of a business in the municipality in respect of telephone companies. Where such limitation is effective, it is provided that the municipality must pay, out of its general funds, any additional amount of the taxes of the telephone company and it must distribute the full taxes to the various bodies for which the council is required, by law, to impose taxes and rates.

13. This Association also recommends that, notwithstanding any other provision in THE ASSESSMENT ACT dealing with the assessment of telephone companies, each municipality should have the right to collect taxes on business assessment of every public or pay telephone.

All of which is respectfully submitted on behalf of

THE ASSOCIATION OF ONTARIO MAYORS AND REEVES

September 1st, 1961

ASSOCIATION OF ONTARIO MAYORS AND REEVES



SPECIAL PAPER BY MAYOR ROBERT M. SIMPSON OF ARNPRIOR SUBMITTED TO THE
1962 ANNUAL CONFERENCE OF THE ASSOCIATION OF ONTARIO MAYORS AND REEVES

ON A

REVIEW OF THE FINANCIAL POSITION OF ONTARIO MUNICIPALITIES.

ASSOCIATION OF ONTARIO MAYORS AND REEVES

OFFICE OF THE EXECUTIVE SECRETARY AND TREASURER - 10 - 31st St. Long Branch, Toronto 14, Ont.

FOREWORD

*** ***

ABOUT THE AUTHOR

"BOB" SIMPSON HAS HELD OR STILL HOLDS THE FOLLOWING MUNICIPAL OR GOVERNMENTAL OFFICES:-

COUNCILLOR	- - -	ARNPRIOR	- - -	1 YEAR
REEVE	- - -	ARNPRIOR	- - -	2 YEARS
MAYOR	- - -	ARNPRIOR	- - -	14 YEARS
COMMISSIONER	-	ONTARIO WATER RESOURCES COMMISSION	-	6 YEARS

PRESIDENT, ONTARIO ASSOCIATION OF MAYORS AND REEVES
PRESIDENT, CANADIAN FEDERATION OF MAYORS AND MUNICIPALITIES

HAS ATTENDED ALL THE DOMINION-PROVINCIAL CONFERENCES AND THE DOMINION-MUNICIPAL CONFERENCE FROM 1946 TO-DATE.

AS PRESIDENT OF OUR ASSOCIATION, TRAVELLED ACROSS CANADA TO SPEAK ON THE RE-ALLOCATION OF TAXATION REVENUES JUST PRIOR TO THE FIRST DOMINION-PROVINCIAL CONFERENCE.

AS PRESIDENT OF THE CANADIAN FEDERATION, HE VISITED 94 CITIES AND TOWNS IN CANADA AND SPOKE ON THE INCREASED RANGE OF SERVICES THE FEDERATION WERE TO OFFER AND THE DIFFICULTIES OF DEBENTURE BORROWING AT THAT TIME.

HE WAS A CANADIAN REPRESENTATIVE AT THE INTERNATIONAL CONGRESS OF MUNICIPALITIES IN BERLIN AND AS A MEMBER

OF A COMBINED DELEGATION OF CANADIAN AND AMERICAN MAYORS VISITED MANY EUROPEAN CITIES.

HE HAS REPRESENTED THIS COUNTRY AT SEVERAL OF THE CONVENTIONS OF THE UNITED STATES CONGRESS OF MAYORS. HE WAS ONE OF THE GROUP THAT ORIGINATED THE REGIONAL DEVELOPMENT IDEA INVOLVING PARTNERSHIP BETWEEN THE GOVERNMENT AND THE PEOPLE OF ONTARIO IN THE IMPORTANT MATTER OF INDUSTRIAL DEVELOPMENT.

THE OPINIONS AND RECOMMENDATIONS CONTAINED HEREIN ARE THOSE OF THE AUTHOR AND DO NOT NECESSARILY REPRESENT THE POLICY OF THE ASSOCIATION WHICH HAS NOT HAD THE OPPORTUNITY OF PASSING ON SAME AS YET.

MARIE CURTIS, SECRETARY-TREASURER.

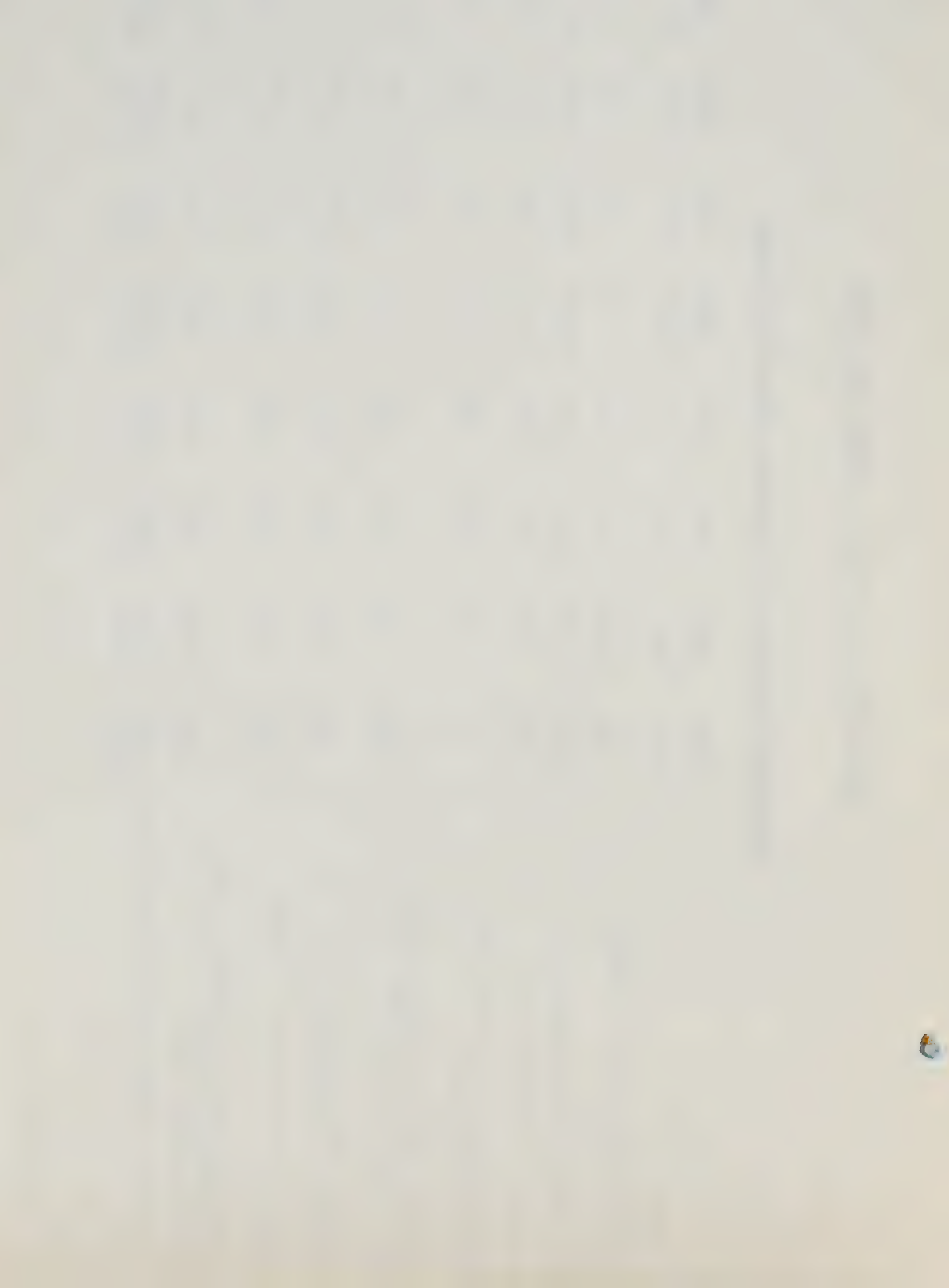
GRATEFUL ACKNOWLEDGMENT IS MADE TO THE DEPARTMENT OF MUNICIPAL AFFAIRS, THE TREASURY DEPARTMENT AND THE DEPARTMENT OF EDUCATION FOR MATERIAL SUPPLIED.

MISS LORNA CAMPBELL OF THE ENGINEERING DEPARTMENT OF THE TOWN OF ARNPRIOR DID THE LAY-OUT; STAN TOURANGEAU THE ARTISTIC WORK, THE CITY OF TORONTO THROUGH MORLEY GORDON THE COVER.

MANY THANKS TO EVERYBODY.

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[illegible]



PERCENTAGE DISTRIBUTION OF MUNICIPAL EXPENDITURES BY FUNCTION

[illegible]

NET DEBTENTURE DEBT AND MUNICIPAL TAXATION

YEAR	POPULATION	TAXABLE ASSESSMENT \$	<u>NET DEBTENTURE DEBT</u>		PROVINCIAL NET CAPITAL DEBT PER CAPITA	<u>MUNICIPAL TAXATION</u>	
			AMOUNT \$	PER CAPITA \$		AMOUNT \$	PER CAPITA \$
1947	3,854,496	3,346,367,304	193,148,000	50.11	118.74	133,443,000	34.62
1948	3,941,527	3,434,843,475	225,335,000	57.17	109.95	149,324,000	37.83
1949	4,082,829	3,980,518,432	262,342,000	64.25	111.38	169,832,000	41.60
1950	4,202,539	4,199,318,498	331,354,000	78.85	114.46	188,353,000	44.82
1951	4,325,503	4,410,041,534	425,406,000	98.35	114.18	226,033,000	52.26
1952	4,490,096	4,773,779,203	484,604,000	107.93	116.45	259,847,000	57.87
1953	4,648,008	5,043,590,624	587,906,000	126.49	123.03	279,920,000	60.22
1954	4,841,887	6,099,161,934	680,572,000	140.56	123.87	306,028,000	63.20
1955	5,013,324	6,567,472,293	761,539,000	151.91	126.07	336,164,000	67.06
1956	5,130,947	7,195,880,491	873,962,000	170.33	131.05	382,262,000	74.50
1957	5,319,699	7,921,731,000	1,005,397,000	188.99	135.75	431,217,000	81.05
1958	5,504,083	8,205,734,000	1,148,534,000	208.67	141.80	465,521,000	84.58
1959	5,682,338	8,847,190,000	1,272,141,000	223.89	152.22	525,321,000	92.45
1960	5,809,978	9,413,014,000	1,412,874,000	243.22	163.47	586,722,000	101.00
1961	5,928,000	9,861,015,000	1,511,954,000	255.05	176.51	640,792,000	108.09
INCREASE 1961 OVER 1947	53.79%	194.67%	682.74%	408.98%	48.65%	380.19%	212.21%

PROVINCIAL ASSISTANCE TO MUNICIPALITIES, SCHOOL BOARDS AND OTHER ASSOCIATED BODIES

YEAR	PROVINCIAL NET ORDINARY REVENUE \$	DIRECT SUBSIDIES TO MUNICIPALITIES \$	DIRECT SUBSIDIES AS A % OF MUNICIPAL BUDGETS %	PROVINCIAL PAYMENTS TO SCHOOL BOARDS \$	TOTAL PROVINCIAL PAYMENTS TO MUNICIPALITIES SCHOOL BOARDS AND OTHER BODIES (1) \$	TOTAL PAY- MENTS AS A % OF PROV- INCIAL NET ORDINARY REVENUE %
1947	191,699,000	20,084,784	11.03	30,134,336	54,983,000	28.68
1948	215,470,000	23,252,516	11.39	34,953,529	68,206,000	31.65
1949	228,550,000	27,590,699	11.93	37,478,896	79,583,000	34.82
1950	265,272,000	29,476,529	11.59	42,539,586	86,692,000	32.68
1951	302,321,000	34,017,542	11.33	46,875,998	105,447,000	34.88
1952	349,500,000	38,826,320	11.32	54,754,828	109,421,000	31.30
1953	372,973,000	40,883,505	10.91	57,671,978	125,612,000	33.67
1954	399,393,000	53,367,799	12.62	62,904,374	127,649,000	31.96
1955	427,969,000	63,286,726	13.36	71,913,203	154,031,000	35.99
1956	479,783,000	66,997,909	12.59	79,061,993	164,663,000	34.32
1957	591,849,000	80,432,777	13.30	96,485,948	187,186,000	31.62
1958	642,374,000	95,229,274	14.26	128,167,957	225,764,000	35.14
1959	702,470,000	110,302,276	14.74	148,186,286	267,340,000	38.05
1960	739,391,000	121,479,299	14.68	158,740,934	309,561,000	41.86
1961	813,691,000	127,556,817	14.16	181,278,233	340,923,000	41.89

(1) INCLUDES INDIRECT ASSISTANCE TO MUNICIPALITIES SUCH AS PROVINCIAL GRANTS TO PUBLIC HOSPITALS, CHILDREN'S AID SOCIETIES, CONSERVATION AUTHORITIES, ETC.



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ANALYSIS OF GROSS DEBTENTURE DEBIT

YEAR	GENERAL		LOCAL IMPROVEMENTS		EDUCATION		WATER		ELECTRICAL		OTHER	
	AMOUNT \$'000	% OF TOTAL %	AMOUNT \$'000	% OF TOTAL %	AMOUNT \$'000	% OF TOTAL %	AMOUNT \$'000	% OF TOTAL %	AMOUNT \$'000	% OF TOTAL %	AMOUNT \$'000	% OF TOTAL %
1947	96,137	43.7	24,130	11.05	46,412	21.09	30,977	14.08	8,393	3.81	13,719	6.23
1948	110,296	45.5	27,103	11.18	57,333	23.65	30,061	12.4	6,607	2.72	10,943	4.51
1949	118,482	42.5	32,295	11.60	71,745	25.78	32,626	11.72	7,117	2.55	15,901	5.71
1950	129,616	37.4	40,706	11.77	89,100	27.10	38,936	11.26	18,316	5.29	28,970	8.38
1951	147,484	33.7	49,657	11.34	120,916	27.62	48,354	11.05	21,794	4.98	49,371	11.28
1952	162,912	32.8	58,990	11.89	145,552	29.35	52,331	10.55	27,047	5.45	48,973	9.87
1953	177,063	29.6	66,713	11.16	178,546	29.83	64,402	10.78	31,926	5.34	79,203	13.25
1954	203,623	29.5	77,970	11.31	204,977	29.69	74,195	10.77	47,000	6.82	81,005	11.75
1955	203,974	26.5	87,539	11.4	238,284	31.02	81,618	10.63	55,504	7.23	100,426	13.0
1956	241,919	27.4	93,347	10.58	289,927	32.8	100,539	11.4	58,536	6.63	97,596	11.06
1957	280,584	27.5	113,547	11.15	343,371	33.96	119,345	11.72	63,125	6.2	98,056	9.63
1958	342,960	29.32	124,926	10.68	392,455	33.55	141,074	12.06	68,667	5.87	99,439	8.5
1959	400,936	30.72	134,307	10.29	449,186	34.42	147,769	11.32	69,838	5.35	102,967	7.89
1960	466,396	31.9	145,500	9.95	514,249	35.17	157,941	10.80	74,078	5.06	103,666	7.09
1961	516,993	32.76	153,546	9.73	555,990	35.23	161,585	10.23	82,365	5.21	107,512	6.81
INCREASE 1961 OVER 1947												
GENERAL			LOCAL IMPROVEMENTS			EDUCATION		WATER		ELECTRICAL		OTHER
437.76%			536.32%			1.097.94%		421.62%		881.23%		693.67%

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TOTAL COST OF EDUCATION AT LOCAL LEVEL

YEAR	MUNICIPAL COST			% OF TOTAL COST %	PROVINCIAL PAYMENTS TO SCHOOL BOARDS		TOTAL COST OF EDUCATION \$
	AMOUNT \$	PER CAPITA \$	% OF TAX RATE %		AMOUNT \$	% OF TOTAL COST %	
1947	44,608,000	11.57	33.40	59.6	30,134,336	40.3	74,742,336
1948	51,180,000	12.98	34.30	59.4	34,953,529	40.5	86,133,529
1949	59,864,000	14.66	35.20	61.4	37,478,896	38.5	97,342,896
1950	67,244,000	16.00	35.70	61.25	42,539,586	38.74	109,783,586
1951	85,313,000	19.73	37.70	64.53	46,875,998	35.46	132,188,998
1952	100,079,000	22.29	38.50	64.6	54,754,828	35.36	154,833,828
1953	112,217,000	24.14	40.10	66.0	57,671,978	33.94	169,888,978
1954	121,836,000	25.16	39.80	65.9	62,904,374	34.05	184,740,374
1955	139,841,000	27.90	41.60	66.0	71,913,203	33.96	211,754,203
1956	163,947,000	31.95	42.90	67.5	79,061,993	32.53	243,008,993
1957	188,394,041	34.95	43.1	66.14	96,485,948	33.86	284,879,989
1958	200,441,577	35.93	42.5	61.0	128,167,957	39.00	328,609,534
1959	234,538,061	40.84	44.2	61.3	148,186,286	38.70	382,724,347
1960	263,196,200	44.82	44.4	62.4	158,740,934	37.60	421,937,134
1961	290,560,447	48.56	45.34	61.6	181,278,233	38.4	471,838,680

EDUCATIONAL LEVIES IN ONTARIO MUNICIPALITIES

	PUBLIC	SEPARATE	SECONDARY	TOTAL
1947	\$ 30,410,614	\$ 3,279,960	\$ 10,694,891	\$ 44,385,465
1956	103,145,087	12,835,359	49,252,032	165,232,478
1961	166,452,536	23,032,257	101,095,654	290,580,447

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WHERE ARE WE? WHERE ARE WE GOING? HOW ARE WE GOING TO MAKE IT? ARE THE QUESTIONS WORRYING ALL MUNICIPALITIES. THIS PARTICULAR EXERCISE TAKES EXCERPTS FROM STATISTICS PROVIDED BY THE DEPARTMENT OF MUNICIPAL AFFAIRS, THE BUDGET SPEECH OF THE PROVINCIAL TREASURER AND THE REPORT OF THE MINISTER OF EDUCATION TO TRACE THE TREND OVER THE PAST FIFTEEN YEARS, "FIXES" THE PRESENT POSITION; USES A CHART SYSTEM TO PREDICT THE LIKELY POSITION 10 YEARS HENCE AND THEN FINALLY MAKES SOME SUGGESTIONS WHICH WOULD OF A CERTAINITY UPSET ALL THE LONG RANGE FORECASTS, BUT ON THE OTHER HAND THE SUGGESTIONS MADE MIGHT PROVIDE THAT HAPPY HOLLYWOOD ENDING TO OUR STORY.

IT IS A CERTAINTY THAT THE MUNICIPALITIES HAVE NEVER FULLY RECOVERED FROM THE NECESSARY DEFERMENT OF CAPITAL PROJECTS DURING THE WAR. MUNICIPAL PLANT, SERVICES AND EQUIPMENT ARE IDENTICAL WITH THOSE OF INDUSTRY INsofar AS MAINTENANCE ETC ARE CONCERNED BUT, WITH THE TREND TO URBANIZATION AND THE TREMENDOUS GROWTH FACTOR IN ONTARIO, STATISTICS PROVE TO THE MUNICIPALITIES IN PARTICULAR THAT THE COST OF EXPANSION IS HIGH.

EDUCATION IS ALMOST AN INSOLUBLE PROBLEM. COSTS ARE FAR OUTSTRIPPING THE ABILITY OF BOTH PROVINCIAL AND MUNICIPAL GOVERNMENTS TO PAY THE SHOT - AND THAT WORD SHOT IS A GOOD ONE - BECAUSE IN THIS COMPETITIVE WORLD OF UNREST AND CONFLICT - THE STANDARD OF OUR EDUCATION MUST REMAIN HIGH. THE GORDON REPORT WITH ITS PREDICTIONS, SUGGESTIONS AND COMMENTS DISCUSSED THESE SAME PROBLEMS. IT WOULD APPEAR ITS ESTIMATES OF OUR GROWTH AND ITS ATTENDING PROBLEMS HAVE BEEN ACCURATE. THE BASIC SUGGESTION CONCERNING EDUCATION - THAT IS - "NO CHILD NEED BE DENIED A SATISFACTORY EDUCATION MERELY BECAUSE HIS OR HER LOCAL SCHOOL DISTRICT HAPPENS TO BE TAX-POOR", NEEDS TO BE RE-EXAMINED IN ALL ITS ASPECTS. THERE ARE MANY INEQUALITIES TO-DAY.

POLITICAL LIFE IS FRAUGHT WITH CHANGES; THERE ARE MANY NEW FACES HERE. FOR THE BENEFIT OF THESE NEW COVERS, THE POLICY OF THIS ASSOCIATION WITH RESPECT TO TAXATION MATTERS HAS BEEN:-

(A) TO DEFINE SPECIFICALLY THE SERVICES TO BE PROVIDED BY MUNICIPALITIES WHICH ARE PROPERLY AND BASICALLY MUNICIPAL SERVICES, CHARGEABLE TO MUNICIPAL TAXATION;

- 8 -

(B) TO DEFINE SPECIFICALLY GENERAL SERVICES, RENDERED AT THE MUNICIPAL LEVEL, HAVING A WIDER THAN LOCAL SCOPE AND JURISDICTION OR OF GENERAL BENEFIT TO THE CITIZENS AT LARGE, WHICH SHOULD BE FINANCED BY SOURCES OF REVENUE NOW AVAILABLE OR TO BE MADE AVAILABLE AT THE PROVINCIAL AND FEDERAL LEVELS.

THIS APPROACH WAS SUGGESTED BECAUSE THE ASSOCIATION CONSIDERED THAT A CLEAR DEFINITION OF SERVICES AND THE FINANCING OF SUCH SERVICES ON AN EQUITABLE BASIS AT THE PROPER LEVELS OF GOVERNMENT WAS A MOST IMPORTANT STEP IN DETERMINING THE ADJUSTMENT OF THE MUNICIPAL POSITION AND TAX STRUCTURE. AT THAT TIME THE SERVICES CONSIDERED BY THIS ASSOCIATION TO BE BASICALLY MUNICIPAL IN NATURE WERE DEFINED AS FOLLOWS:

WATER SUPPLY,
SEWERAGE,
STREET CLEANING AND SNOW CLEANING,
GARBAGE COLLECTION AND DISPOSAL,
STREET LIGHTING,
EXCLUSIVELY MUNICIPAL ROADWAYS, BRIDGE
CONSTRUCTION AND MAINTENANCE AND
TRAFFIC CONTROL FACILITIES (WITH A
FAIR SHARE TO MUNICIPALITIES OF REVENUES
DERIVED BY THE PROVINCE FROM GASOLINE
TAX AND LICENSE FEES AND BY THE FEDERAL
GOVERNMENT FROM MOTOR VEHICLES AND
ACCESSORIES),

LOCAL IMPROVEMENTS,
POLICE AND FIRE PROTECTION,
PARKS AND RECREATION,
HEALTH AND SANITATION SERVICES,
MUNICIPAL ADMINISTRATION.

THE NON-BASIC MUNICIPAL SERVICES, HAVING A WIDER THAN LOCAL SCOPE AND JURISDICTION, OR OF GENERAL BENEFIT TO THE CITIZENS AT LARGE WHICH THIS ASSOCIATION CONSIDERED SHOULD BE FINANCED SOLELY BY OTHER SOURCES OF GENERAL REVENUE NOW IN THE HANDS OF THE PROVINCIAL AND FEDERAL GOVERNMENTS, WERE DEFINED AS FOLLOWS:

INDIGENT RELIEF,

PUBLIC WELFARE AND SOCIAL SERVICES
(INCLUDING ALL HOSPITALIZATION AND
INSTITUTIONAL COSTS NOW BORE BY
MUNICIPALITIES),

EDUCATION,
SUBSIDIZING OF HOUSING,
CIVIL DEFENCE MEASURES,
ADMINISTRATION OF JUSTICE,
PROVINCIAL HIGHWAYS THROUGH
MUNICIPALITIES.

TO SOME DEGREE OUR 17 YEAR OLD POLICY HAS BEEN ALTERED BY THIS CONVENTION A "SOFTER" APPROACH WAS TAKEN ON EDUCATION - A MOTION PASSED ASKING FOR INCREASED PROVINCIAL ASSISTANCE BUT THE WRITER WOULD VENTURE THE OPINION THIS WAS BORN OF DESPERATION.

SOME SPECIAL INFORMATION ON METRO TORONTO

	ONTARIO	METRO TORONTO	METRO TORONTO AS PER CENT OF ONTARIO
(A) POPULATION	5,928,372	1,553,387	26.2%
(B) ASSESSMENT	9,861,015.090	3,812,099.410	38.65%
(C) TAX LEVY	644,639,589	233,638,371	36.24%
PER CAPITA	\$108.74	\$150.40	
(D) SUBSIDIES	107,079,944	32,628,155	30.24%
(E) EDUCATION	290,560,447	101,830,439	35.04%
PER CAPITA	48.56	65.55	

NOTE

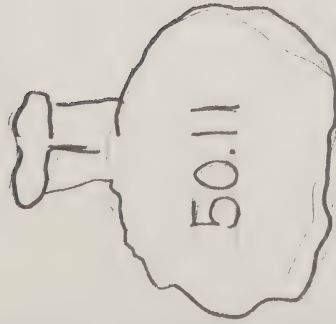
EDUCATION REPRESENTS 43.58% OF TAX LEVY

(A) IT COSTS MORE TO LIVE IN METRO TORONTO. PER CAPITA TAX LEVY \$150.40 AS AGAINST PROVINCIAL AVERAGE OF \$108.74.

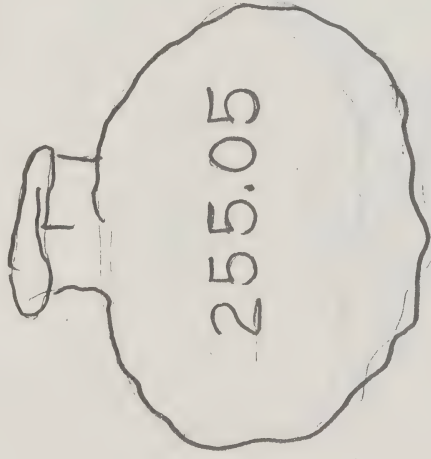
(B) EDUCATION IS MORE EXPENSIVE - \$65.55 PER CAPITA AS AGAINST PROVINCIAL AVERAGE OF \$48.56. NOTE THAT THE PROVINCIAL AVERAGE INCLUDES METRO TORONTO.

(C) SUBSIDY SLIGHTLY OVER AVERAGE IN PROPORTION TO PERCENTAGE OF POPULATION DUE TO HEAVY EXPENDITURES ON THROUGH HIGHWAY ROUTE.

BY NO STANDARDS CONTAINED HEREIN CAN TORONTO BE REGARDED AS "HOGTOWN". INDEED BY REASON OF SIZE, IT HAS MANY UNIQUE PROBLEMS OF ITS OWN. THE HIGHWAY CONNECTING LINK PROBLEM IS MORE SERIOUS BECAUSE THE MULTITUDE OF LATERAL STREETS IMPEDE VELOCITY AND CAPACITY TO THE POINT AN ELEVATED STRUCTURE IS NECESSARY. THIS IS INFINITELY MORE EXPENSIVE AND WHILE THE PROVINCIAL SUBSIDY DOES HELP - IT DOES SO ON A PERCENTAGE BASIS. METRO TORONTO HAS PROBLEMS; AND BECAUSE 26.2% OF ALL THE PEOPLE OF ONTARIO RESIDE THEREIN, THE SOLUTION OF THESE AFFECTS - TO SOME DEGREE - THE PROGRESS OF ALL OUR MUNICIPALITIES IN ONTARIO. BY THE CONSTRUCTION OF THE 401 BYPASS AND THE GARDNER EXPRESSWAY SOMETHING IS BEING DONE FOR MOTOR VEHICULAR TRAFFIC. ON THE OTHER HAND, MASS TRANSPORTATION IS NECESSARY TO PRESERVE THE ASSESSMENT VALUES OF THE DOWN-TOWN AREA AND TO THIS END, TWO SUGGESTIONS ARE OFFERED. FOR MOTOR DRIVEN SURFACE UNITS OPERATING SOLELY WITHIN THE MUNICIPAL BOUNDARIES, GASOLINE TAX SHOULD BE REBATED SO AS TO ALLOW FARES TO BE KEPT AT A MINIMUM.



1947



1961

WHAT YOU ~~OWE~~ OUCH!

THE TIME HAS COME FOR PROVINCIAL ASSISTANCE IN THE CAPITAL COST OF UNDERGROUND MASS TRANSPORTATION FACILITIES. THE PROVINCE HAS A "STAKE" IN PRESERVING THE CIVIC "WELFARE" OF ITS LARGEST POPULATION CENTER AND ITS ABILITY TO CONTINUE TO CONTRIBUTE A MAJOR PROPORTION OF PROVINCIAL REVENUES.

(METRO TORONTO EVEN SUPPLIES 30% OF ALL TAX REVENUES FOR THE FEDERAL GOVERNMENT). THINKING AMONG EXPERIENCED MUNICIPAL PEOPLE IS PREDICATED ON THE SOLUTION OF PROBLEMS ON THE PRESENT NARROW AND INSUFFICIENT REVENUE BASIS. THIS PROBLEM OF DOWN-TOWN AREA PRESERVATION IS BEYOND THE FINANCIAL CAPABILITY OF ANY MUNICIPALITY AND YET - IS SO IMPORTANT TO ITS GENERAL WELFARE THAT OUTSIDE ASSISTANCE MUST BE OBTAINED. THERE IS NO "HOGTOWN". OUR BIGGEST CENTER OF POPULATION HAS PROBLEMS.

PAGE 1 COVERS DISTRIBUTION OF MUNICIPAL REVENUE BY SOURCE AND THE TWO SIGNIFICANT FACTORS ARE THE INCREASED FEDERAL ASSISTANCE BY 297.8% AND THE PROVINCE OF ONTARIO SUBSIDIES BY 35.23%. IT MUSTN'T BE OVERLOOKED THAT THESE INCREASES ARE PERCENTAGES OF PERCENTAGES AND DO NOT REFLECT THE TREMENDOUS NUMBER OF DOLLARS INVOLVED.

GENERAL GOVERNMENT AS A PERCENTAGE OF EXPENDITURE IS DECREASING OVER THE YEARS UNDOUBTEDLY CAUSED TO SOME EXTENT

MUNICIPAL TAXATION PER CAPITA



WHAT A DIFFERENCE
YEARS MAKE

BY HIGHER DEBT CHARGES AND OF COURSE HIGHER EDUCATIONAL COSTS AS SHOWN ON PAGE 2.

THREE SETS OF FIGURES ON PAGE THREE ARE INTERESTING. THE PER CAPITA DEBTURE DEBT INCREASE FROM \$50.11 IN 1947 TO \$255.05 IN 1961, SOME 408.98% (SEE FIGURE 1). ON THE OTHER HAND, THE PROVINCE OF ONTARIO NET CAPITAL DEBT PER CAPITA INCREASED FROM \$118.74 IN 1947 TO \$176.51 IN 1961 - PERCENTAGE INCREASE OF 48.65%.

I THINK AT THIS TIME IT IS ONLY FAIR TO GIVE THE VARIOUS PROVINCIAL TREASURERS OVER THE PAST 15 YEARS FULL MARKS FOR A JOB WELL DONE. THE BASIC INGREDIENT HAS BEEN THE DESIRE AND ABILITY TO PAY A PORTION OF EACH CAPITAL EXPENDITURE FROM CURRENT REVENUE. THIS IS SOMETHING THE MUNICIPALITIES MIGHT WELL FOLLOW; THE UPHEAVAL BEING CUSHIONED BY MEASURES SUGGESTED LATER ON. THE THIRD SERIES OF FIGURES - THE PER CAPITA TAXATION - SHOWS A 212.21% INCREASE FROM \$34.62 PER CAPITA IN 1947 TO \$108.09 IN 1961. THIS ONE BRINGS UP MANY QUESTIONS. A PURELY MUNDANE ONE IS HOW CAN YOU CONTINUE IN OFFICE WITH TAXES INCREASING EVERY YEAR - MORE PERTINENT OF COURSE, IS - WHAT CAN YOU DO ABOUT IT?

AN EXAMINATION OF MUNICIPAL EXPENDITURES INDICATES THAT

THE ABILITY OF THE ELECTED REPRESENTATIVE TO CONTROL

SPENDING IS SEVERELY RESTRICTED BY THE ABILITY OF OUTSIDE

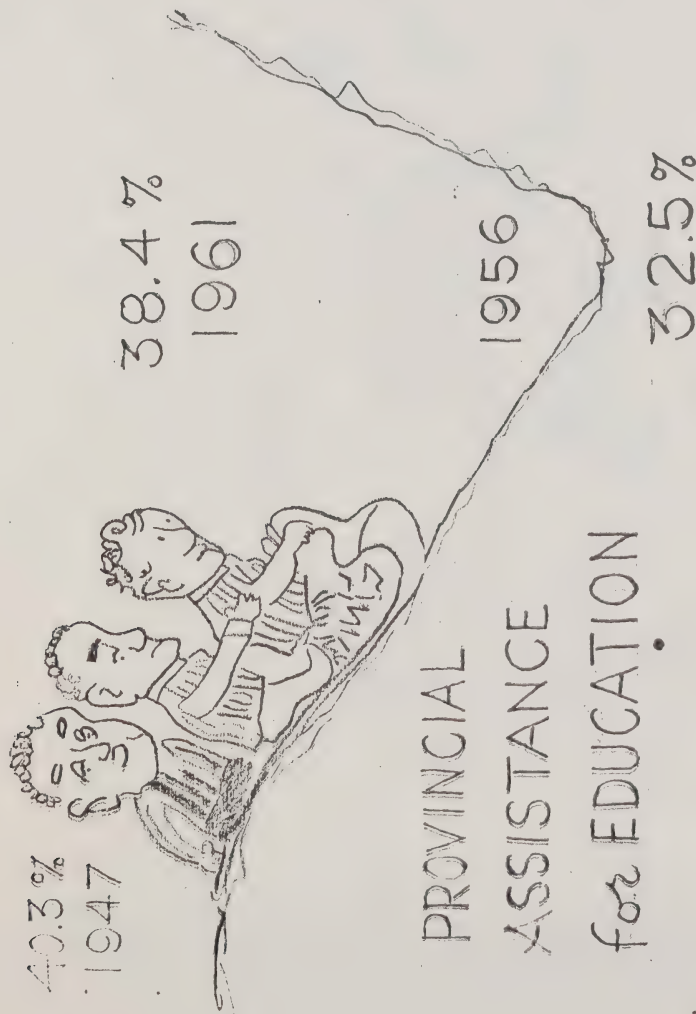
BODIES TO SPEND, DEBENTURE COMMITMENTS, SALARIES, OPERATING EXPENSES, ETC.

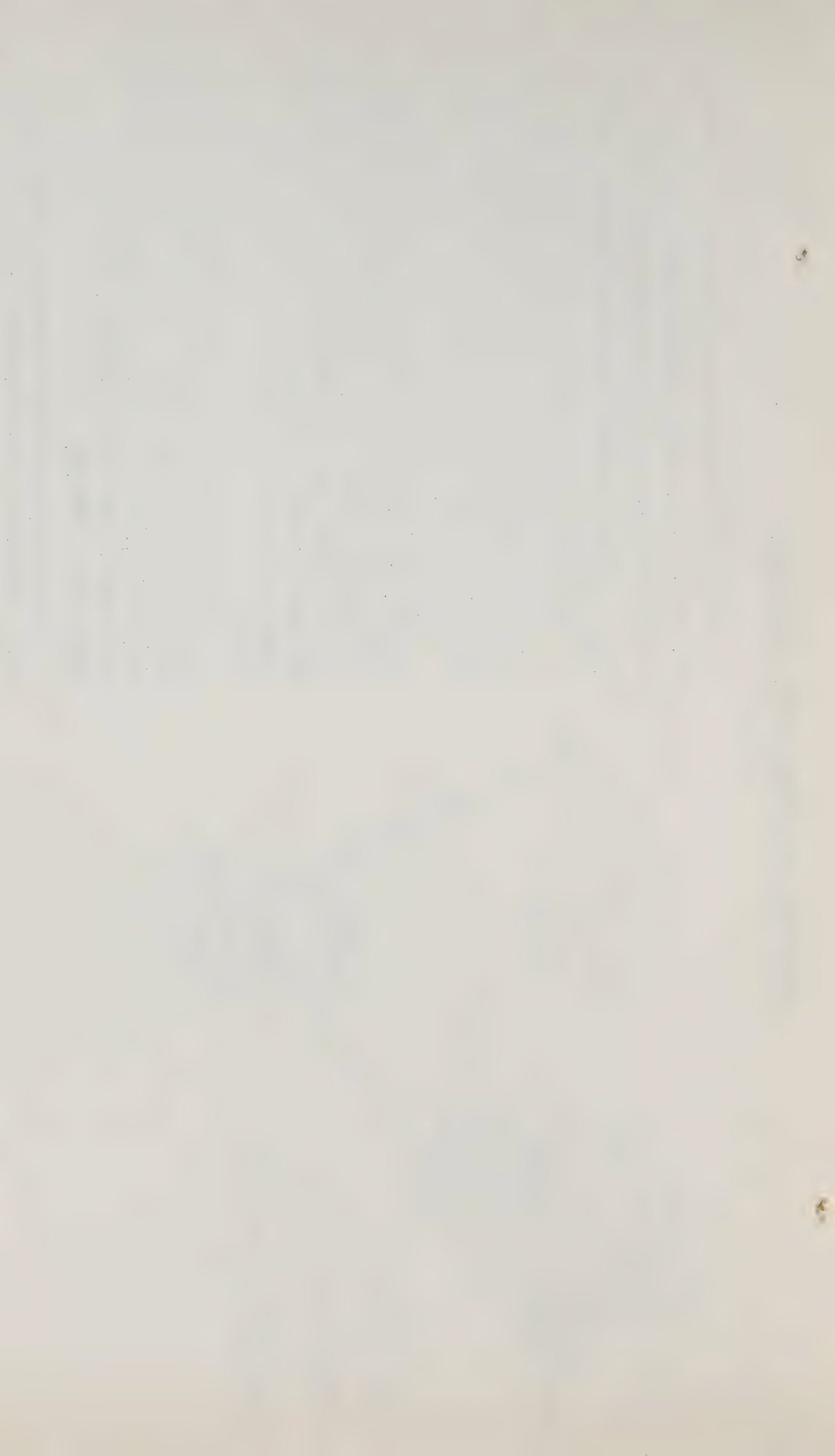
OF COURSE, THE MAIN PROBLEM IS THE PATIENT. HOW LONG CAN OUR POOR SUFFERING MUNICIPAL TAXPAYER CARRY THIS EVER INCREASING LOAD OF CHARGES - A LARGE PERCENTAGE OF WHICH DO NOT PROVIDE SERVICE OF ANY KIND FOR THE PROPERTY WHICH BEARS THE TAXATION? (SEE FIGURE # 2).

THE MUNICIPALITIES HAVE JUST CAUSE TO BE GRATEFUL TO THE PROVINCIAL GOVERNMENT - DIRECT SUBSIDIES FOR MUNICIPAL PURPOSES ONLY HAVE INCREASED FROM \$20,084,784 IN 1947 TO \$127,556,817 IN 1961. TOTAL PROVINCIAL PAYMENTS TO ALL MUNICIPAL BODIES AND THEIR ASSOCIATED BOARDS INCREASED FROM \$54,983,000 IN 1947 TO \$340,923,000 IN 1961. THAT IS A LOT OF HAY AND WITHOUT IT - THE MUNICIPALITIES WOULD HAVE STARVED.

AS A MATTER OF INTEREST, PAYMENTS REPRESENTED 28.63% OF THE PROVINCIAL BUDGET IN 1947 AND HAVE STEADILY INCREASED WHERE THEY NOW REPRESENT 41.89%. THE ANALYSIS OF DEBENTURE DEBT INDICATES WHERE THE CONSTRUCTION MONEY IS GOING. THE WHOLE STORY IS TOLD IN THE PERCENTAGE INCREASES WITH EDUCATION UP 1.097.94%.

FINAL PAGE OF STATISTICAL INFORMATION DEALS WITH THE COST OF EDUCATION AT THE LOCAL LEVEL AND ITS QUITE A STORY.





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TO THE MUNICIPALITIES EDUCATION NOW COSTS \$48.56 PER CAPITA IN PLACE OF THE \$11.57 - 15 YEARS AGO. IT NOW TAKES UP 45.34% OF THE TAX RATE AS AGAINST 33.4% - 15 YEARS AGO. BEFORE EVERYBODY GETS CONFUSED - CHART ON PAGE 2 SHOWED EDUCATION AS 32.85% OF ALL MUNICIPAL REVENUE AND SINCE TAXATION REPRESENTS 71.2% OF THAT SAME REVENUE, EDUCATION PERCENTAGE - WISE TAKES UP IN MONIES COLLECTED FROM THE RATEPAYERS FOR THAT SPECIFIC PURPOSE, 45.34% OF SAME. ACTUALLY, EDUCATION HAS NO CALL ON MONIES OR SUBSIDIES RECEIVED FOR OTHER PURPOSES - EXAMINE THE BREAKDOWN OF REVENUES SHOWN ON PAGE 1 IF NECESSARY TO CONFIRM.

PROVINCIAL ASSISTANCE FOR EDUCATION STARTED OFF IN 1947 AT 40.3% OF THE TOTAL COST; SLIPPED TO A LOW OF 32.53% IN 1956 AND CLIMBED BACK TO 38.4% IN 1961. HOWEVER,

THE WHOLE ESSENCE OF THE PROBLEM MAY BE SEEN IN THIS

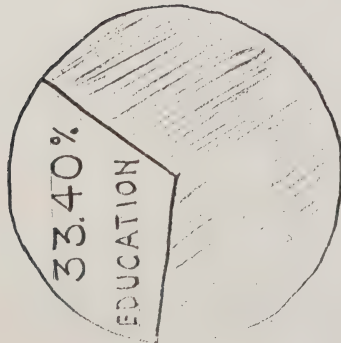
COMPARISON.

IN 1947	40.3%	COST THE PROVINCE	\$74.742.336.
IN 1956	32.53%	COST THE PROVINCE	\$243.008.993.
IN 1961	38.4%	COST THE PROVINCE	\$471.838.680.

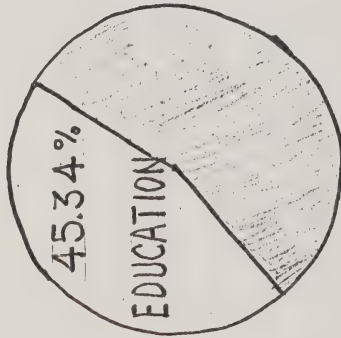
THIS IS A GOOD PLACE TO ASK A QUESTION. DO YOU THINK IT POSSIBLE FOR BOTH WE AS MUNICIPALITIES AND THE PROVINCE TO FIND ENOUGH MONEY TO PAY FOR EDUCATION, IF THE INCREASES



EDUCATION - PER CAPITA COST



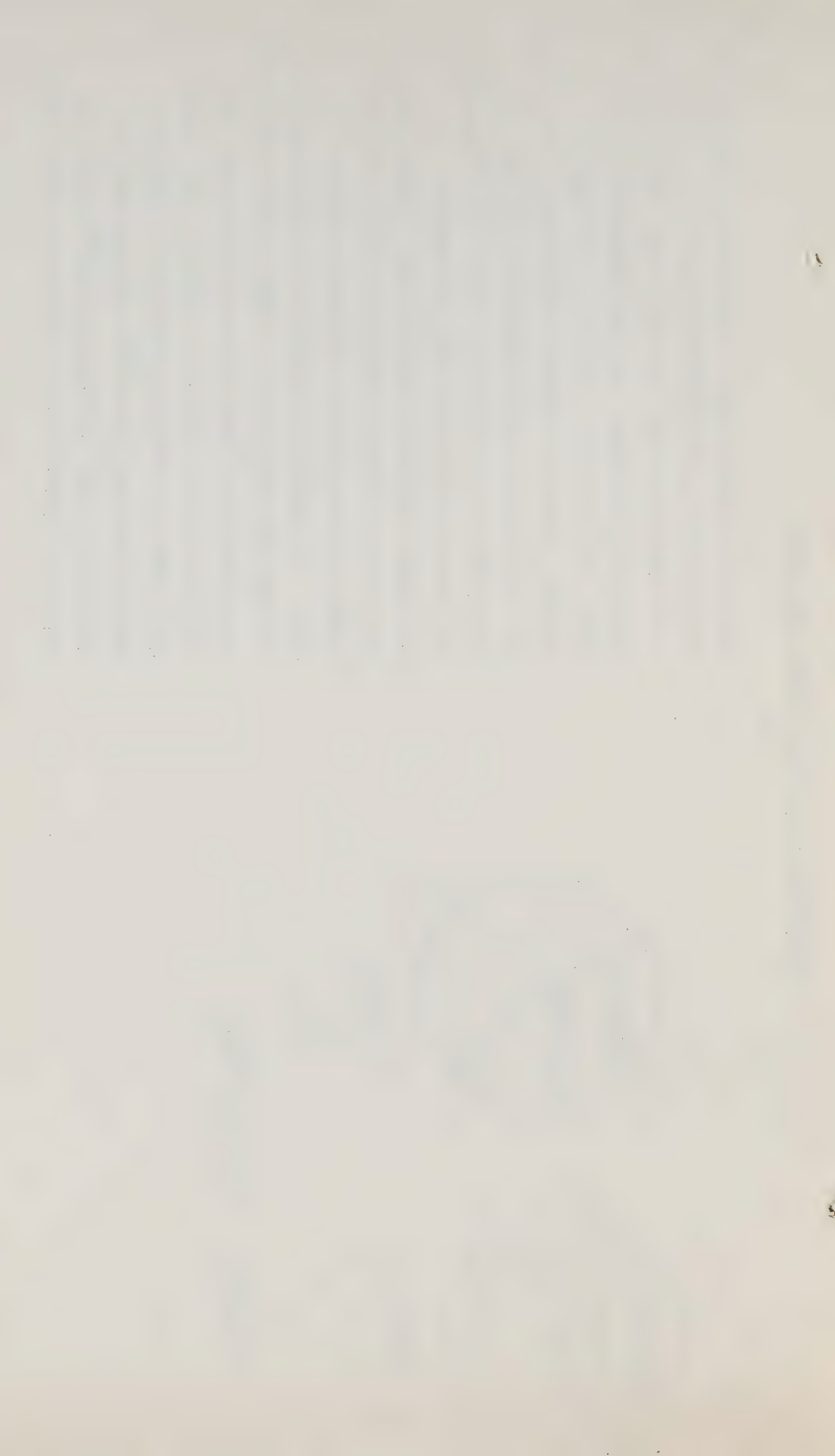
1947



1961

TAX DOLLAR

CONTINUE ON THE SAME SCALE? THE MINISTER OF EDUCATION IS POSITIVE THERE WILL BE 73,000 NEW REGISTRATIONS ANNUALLY FOR THE NEXT FIVE YEARS. THE NEW TECHNICAL AND VOCATIONAL PROGRAM WILL UNDOUBTEDLY KEEP MANY CHILDREN AT SCHOOL LONGER. THE OPERATIONAL COSTS OF THE NEW TECHNICAL - VOCATIONAL SCHOOLS ON THE SAME ASSESSMENT BASIS WILL UNDOUBTEDLY COST THE MUNICIPAL TAXPAYER MORE. IT IS TRUE THE CAPITAL COSTS OF THE BUILDINGS TO HOUSE THIS NEW TRAINING WERE UNDERWRITTEN BY THE FEDERAL AND PROVINCIAL GOVERNMENTS. FOR THIS WE ARE GRATEFUL. A PREDICTION FIVE YEARS AGO INDICATED EDUCATIONAL COSTS WOULD TAKE 44.8% OF TAX RATE BY 1960 - THE ACTUAL PERCENTAGE WAS 44.4%. SAME GRAPH INDICATED THE SCHOOL BOARDS WOULD TAKE OVER FROM MUNICIPAL COUNCILS IN 1966 - AT WHICH TIME SCHOOL COSTS WOULD MAKE UP 53% OF THE MUNICIPAL TAX RATE. PER CAPITA EDUCATIONAL COSTS WILL BE \$66.00 IN 1966. WHERE WILL IT END? THE PROVINCIAL TREASURER, THE HONOURABLE JAMES OR ALLAN SAID IN THE 1961 BUDGET STATEMENT "THE BLUNT TRUTH IS THAT THE PROVINCIAL BUDGET IS BEING BLEED WHITE BY HUGE GRANTS TO MUNICIPALITIES AND SCHOOL BOARDS."



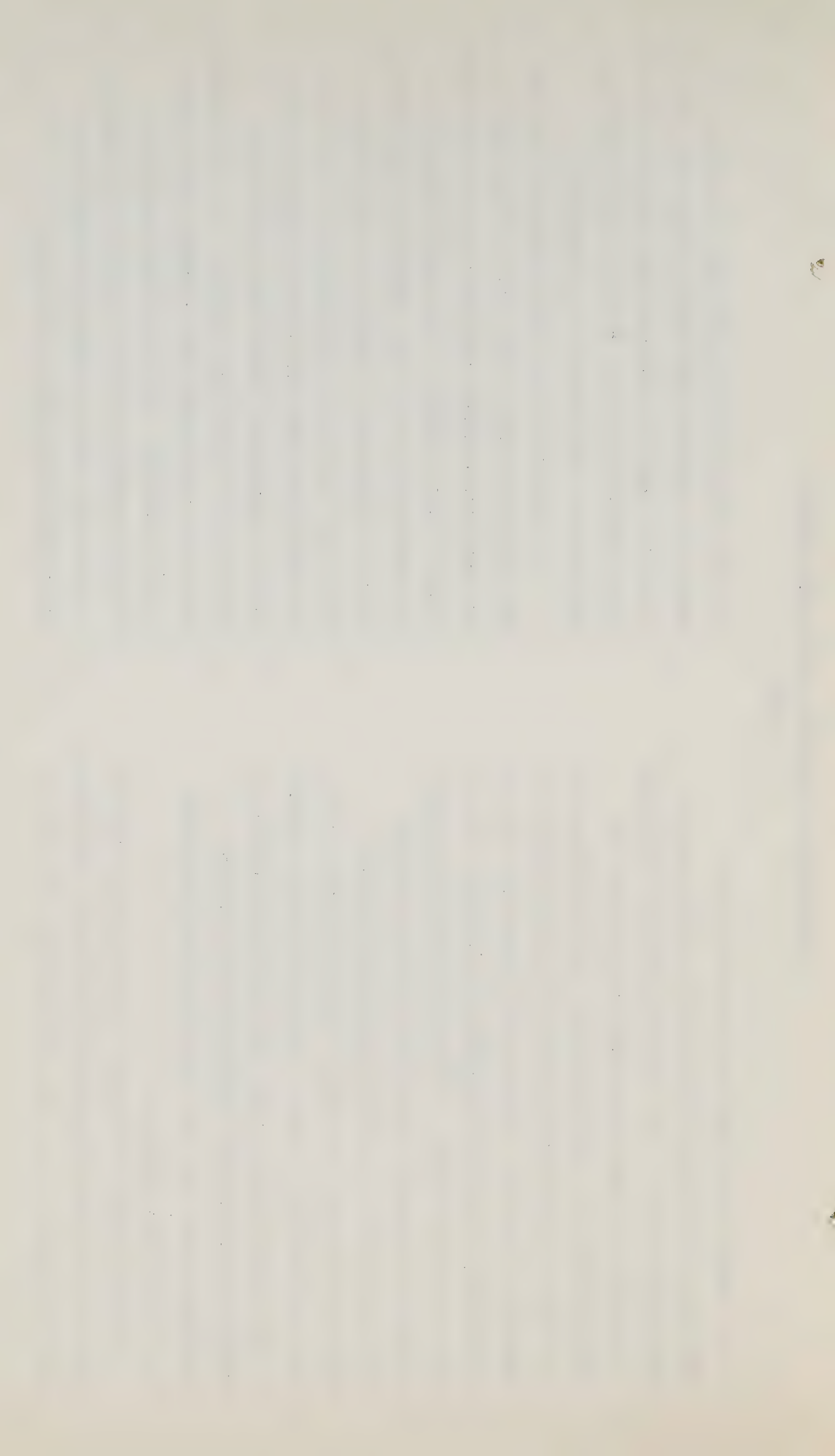
- 15 -

IN THE CURRENT FISCAL YEAR, SUCH ASSISTANCE TOTALS \$344 MILLION AND ABSORBS 45 CENTS OUT OF EVERY DOLLAR OF PROVINCIAL REVENUE." IT IS NOT THE INTENTION TO DISAGREE IN PRINCIPLE. IT WOULD APPEAR THAT THE ONLY HOPE FOR INCREASED MUNICIPAL ASSISTANCE WOULD BE IN PROPORTION TO THE INCREASE IN PROVINCIAL REVENUE AND I WOULD PRESUME THE CONVERSE IS TRUE ALSO. TECHNICALLY, I WOULD POINT OUT THE PERCENTAGE IS CLOSER TO .42¢ RATHER THAN .45¢ BUT THIS IS ONLY A SLIGHT DIFFERENCE IN ARITHMETIC WHICH IN NO MANNER SHAPE OR FORM NEGATES THE SPLENDID ASSISTANCE AND CO-OPERATION THE MUNICIPALITIES HAVE RECEIVED FROM THE PROVINCE OF ONTARIO. HOWEVER, IT MUST BE POINTED OUT THE MUNICIPALITIES ARE IN EXACTLY THE SAME POSITION IN RESPECT TO THEIR SCHOOL BOARDS AS MR. ALLAN WAS QUOTED PREVIOUSLY. SOMEONE DID SUGGEST THAT THE FORMER MAYOR OF MIMICO - GUS EDWARDS MIGHT PUT VERY APPROPRIATELY AND EXPRESSIVELY THE FINIS TO THIS PARAGRAPH.

BEFORE ATTEMPTING TO REACH A SOLUTION, LET US PLACE IN RECORD THE FACT THAT MUNICIPALITIES HAVE FACED A DIMINISHING SCOPE OF TAXATION FIELDS SINCE CONFEDERATION. AT THE SAME

TIME, MUNICIPAL RESPONSIBILITIES HAVE INCREASED. OF COURSE, THIS COMPOUNDS THE PROBLEM. RIGHT NOW, THERE IS NO QUESTION ABOUT IT, MUNICIPAL TAXES INCLUDING AS THEY CHARGES WHICH HAVE NOTHING TO DO WITH SERVICE TO PROPERTIES ARE BECOMING A GOOD SIZED RENT IN THEMSELVES.

I AM INDEBTED TO REEVE TRUE DAVIDSON OF EAST YORK FOR THE THOUGHTS EXPRESSED IN HER VERY FINE TALK JUST CONCLUDED FOR SOME CLOSING REMARKS AND SUGGESTIONS AS TO HOW THESE PROBLEMS MIGHT BE HELPED. TRUE QUOTED FROM THE ACT OF DEDICATION WHICH IS THE FINAL CEREMONY OF EACH CANADIAN FEDERATION CONVENTION. I WOULD LIKE TO DO THE SAME - "OUR CITIES AND TOWNS ARE THE WORKSHOPS OF OUR NATION. SCIENCE AND INDUSTRY HAVE ACHIEVED MIRACLES UNKNOWN TO EARLIER GENERATIONS. WITHOUT OUR FACTORIES AND FOUNDRIES, OUR PLANTS AND OUR MILLS - AND THE MACHINES WHICH FILL THE ASSEMBLY LINES - MODERN SOCIETY WOULD CEASE TO FUNCTION. OUR CITIES WOULD CEASE TO BE." "IN EVERY DEMOCRATIC NATION, THE WELFARE OF THOSE WHO LIVE IN CITIES AND TOWNS IS RIGHTLY THE CONCERN OF THE CONSTITUTED GOVERNMENTS OF THE COUNTRY.



BY THE NATURE OF THINGS, THE PROVISION OF SOCIAL SECURITY, HEALTH AND WELFARE AND THOSE SERVICES PROPER TO THE COMMON WELL-BEING ARE BEYOND THE CAPACITY OF THE LOCAL COMMUNITY TO ASSURE FROM OUT OF ITS OWN REVENUE RESOURCES. IT IS NECESSARY, THEREFORE, THAT THE COST OF PROVIDING SUCH SERVICES SHOULD BE SHARED BY ALL THE PEOPLE PROPORTIONATE TO THEIR FINANCIAL ABILITY IN ORDER THAT ALL THE PEOPLE, IRRESPECTIVE OF THEIR FINANCIAL ABILITY, MAY BENEFIT. THIS IS A SOUND SOCIAL BASIS FOR A GOOD DEMOCRACY. THE STATE WHICH ALONE CAN SPREAD THE COSTS EQUITABLY AMONG ALL THE PEOPLE OF THE NATION, MUST INITIATE AND PROVIDE THE COMMON SERVICES WHICH CITIZENSHIP ACCORDS. THE STATE EXISTS FOR THE WELFARE OF ITS CITIZENS."

SPECIFIC RECOMMENDATIONS

1. A FEDERAL-PROVINCIAL-MUNICIPAL CONFERENCE TO BE HELD AS SOON AS POSSIBLE AND CHARGED WITH THE RESPONSIBILITY OF

RE- ALLOCATING TAXATION FIELDS.

2.(A) THE MUNICIPALITIES CANNOT CONTINUE IN THEIR PRESENT COURSE OF DEBENTURE FINANCING. THERE SHOULD BE A PERIOD OF GRACE TO ALLOW A CASH ACCUMULATION BEFORE ADDITIONAL DEBENTURE FINANCING IS UNDERTAKEN. THE SUCCESS OF THIS

PROCEDURE IS DEMONSTRATED ON PAGE 3 WHERE THE PROVINCIAL AND MUNICIPAL DEBT FIGURES ARE COMPARED.

(B) WITH RESPECT TO THE TREMENDOUS INCREASE IN DEBENTURE DEBT OCCASIONED BY THE CAPITAL BUILDING PROGRAM FOR EDUCATIONAL INSTITUTIONS, THE PROCEDURE MIGHT BE VARIED AS FOLLOWS.

THE PROVINCIAL PARTICIPATION IN THE CAPITAL COST OF AN EDUCATIONAL BUILDING IS ESTABLISHED BEFORE APPROVAL IS GIVEN FOR THE PROJECT. IN OTHER WORDS, ON AN EDUCATIONAL BUILDING COSTING \$1,250,000 IN AN AREA ENTITLED TO A 40% GRANT, THE PROVINCE'S SHARE IS \$500,000.

THE PRESENT PROCEDURE CALLS FOR THIS TO BE PART AND PARCEL OF THE DEBENTURE ISSUE ISSUED BY THE MUNICIPALITY.

A MORE LOGICAL PROCEDURE AND ONE WHICH WOULD ASSIST IN THE MUNICIPAL DEBT PROBLEM WOULD BE FOR THE PROVINCE TO PAY THIS CAPITAL GRANTS IN CASH OR HAVE A SECTION OF THE DEPARTMENT OF EDUCATION AUTHORIZED TO DO THIS TYPE OF FINANCING.



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3. ONTARIO HAS IN EFFECT A MUNICIPAL BANK IN THE FORM OF THE ONTARIO MUNICIPAL IMPROVEMENT CORPORATION WHICH PURCHASES MUNICIPAL DEBENTURES.
IT IS SUGGESTED THAT THE CORPORATIONS POWER BE EXTENDED TO COVER ALL TYPES OF DEBENTURES AND THAT OVERHEAD OR OPERATING COSTS BE A CHARGE AGAINST THE TREASURY SO THAT THE INTEREST RATES WOULD REFLECT THE CURRENT PROVINCIAL RATES.
4. THERE SHOULD BE A DEFINITE AGREEMENT WITH THE PROVINCIAL AUTHORITIES TO REFRAIN FROM LEGISLATION REQUIRING ADDITIONAL MUNICIPAL EXPENSE WITHOUT PRIOR CONSULTATION AND APPROVAL.
5. THERE SHOULD BE INCORPORATION OF THE PRESENT GRANTS-IN-AID INTO PAYMENTS BY STATUTE.
6. THE MUNICIPALITIES ARE IN FAVOUR OF THE PROVINCE REALIZING MORE PROVINCIAL REVENUE FROM THE USE OR SALE OF OUR NATURAL RESOURCES.
7. A TOLL AUTHORITY SHOULD BE CREATED WHICH WOULD RE-IMBURSE THE GOVERNMENT FOR THE CAPITAL COST OF CONSTRUCTING THE 400 TYPE HIGHWAYS AND THEN OPERATE SAME ON A REVENUE PRODUCING BASIS. THE COST RECOVERED THEREFROM COULD BE USED FOR DEBT REDUCTION AND/OR NEW CAPITAL PROJECTS WITH THE WRITER'S PET PROJECT BEING TO ACCELERATE THE DEVELOPMENT PLANS IN NORTHERN ONTARIO.
8. LEGALIZING AND TAXING OF OFF-TRACK BETTING ALONG THE LINES OF THE ENGLISH SYSTEM.
9. ELIMINATION OF TAXATION LOOP-HOLES WHEREBY THE REVENUE ACT PROVIDES FOR A MAXIMUM ASSESSMENT AND ON THE OTHER HAND THE MUNICIPAL ACT SAYS THAT NO CONCESSION OF ANY KIND MAY BE GIVEN.
TO REPEAT, WITH THE MUNICIPALITIES RECEIVING FROM 25% TO 45% OF PROVINCIAL REVENUES AT THE PRESENT TIME, THE ONLY LOGICAL HOPE OF INCREASED MUNICIPAL REVENUE WOULD SEEM TO LIE IN A PROPORTIONATE INCREASE IN PROVINCIAL REVENUE. THESE SUGGESTIONS ARE TO THIS END.
IT MUST NOT BE OVERLOOKED THAT THE MUNICIPALITIES ARE CHILDREN OF THE PROVINCE AND DERIVE THEIR TAXING POWERS FROM THE PROVINCE.
ACTION IS IMPERATIVE ----- NOW - NOT WHEN IT IS TOO LATE. OUR PATIENT IS GETTING WEAKER --- THE LONG SUFFERING MUNICIPAL TAXPAYER NEEDS A BREAK.

4/10/68
ELIMINATION OF THE GASOLINE TAX ON MUNICIPALLY-OWNED MASS TRANSPORTATION UNITS OPERATED SOLELY WITHIN THE MUNICIPAL BOUNDARIES.
CAPITAL ASSISTANCE IN THE CONSTRUCTION OF UNDERGROUND MASS TRANSPORTATION FACILITIES.



THE ASSOCIATION OF
PROFESSIONAL ENGINEERS
OF THE PROVINCE OF ONTARIO
236 AVENUE ROAD TORONTO 5, ONT.

Constituted by Act of the Legislature to Administer the Terms
of the Professional Engineers' Act
R.S.O. 1960, Chap. 309

October 20th, 1961.

Hollis E. Beckett, Esq., M.L.A.,
Chairman and Members of the Select Committee
of the Ontario Legislature

Gentlemen:

The Association of Professional Engineers is established by the Professional Engineers Act (Chap 309 RSO 1960) and has a membership in excess of 19,000.

We respectfully submit certain suggestions for consideration. Our submission will deal with section 239 of the Municipal Act which reads as follows:

"Section 239. All officers appointed by a council hold office during the pleasure of the council and shall, in addition to the duties assigned to them by this Act perform all other duties required of them by any other act or by by-law of the council.", and

section 377, subsection 58 of the Municipal Act which provides as follows:

"Section 377 (58). By-laws may be passed by the Councils of all municipalities for appointing such officers and servants as may be necessary for the purposes of the corporation or for carrying into effect the provisions of any act of the legislature or by-law of the council and for fixing their remuneration and prescribing their duties and the security to be given for the performance of them." and

section 379 subsection 60 of the Municipal Act which provides:

"Section 379. By-laws may be passed by the councils of local municipalities - - "

"(60) for appointing an Ontario land surveyor as surveyor for the corporation and for appointing one or more engineers - -"

and for reference only, section 47(1) of the Highway Improvement Act which reads as follows:

"Section 47(1). Where a county road system is established under this Part, the county shall by by-law appoint a county road superintendent who shall be a professional engineer registered as a civil engineer under The Professional Engineers Act."

BRIEF RE EMPLOYMENT OF MUNICIPAL ENGINEERS

Throughout the Province of Ontario, as you are well aware, each municipality, at least in the larger centers, has employed a professional engineer, giving him various designations, but generally speaking, whose duties are to supervise construction taking place on behalf of the town, and in some cases as town manager, to supervise the growth of the town and the observance of various zoning by-laws.

These engineers are invested with such responsible duties as a rule, that they have been classified by the Courts in several different cases which have dealt with the point, as officers of the town. The difficulty arises in the employment of these town engineers or town managers, that as officers of the town they are subject to the relevant provisions of the Municipal Act governing the tenure of office and the employment of persons who fit within the category and definition of officers.

It has been held, although there is some authority to the contrary, that generally speaking, town engineers are considered to be municipal officers. The effect of section 239 is that as municipal officers they hold employment at the pleasure of the town and may be discharged at any time without notice or cause. If a town or a municipal corporation purported to enter into a contract with a town engineer, or indeed, for that matter, any other officer of the town, which guaranteed to them a security

of office and made provisions for notice in the event of termination of their employment, such an agreement would be void as being ultra vires of the corporation's powers. Whether or not in fact such an agreement were in existence, the town engineer could still be discharged at any time without notice or cause being assigned for his discharge.

Although a town engineer is not dealt with or his duties specifically defined in the Municipal Act, Section 377 (58) quoted above has been held to confer sufficient authority on the town for the establishment of an office such as town engineer and for the appointment of a person to that office whose duties are such that he can be described generally as an officer of the corporation, although his office is not specifically provided for by the Municipal Act.

It may be said with a considerable amount of justification that the municipalities, in employing and having available to them the experience of a man whose qualifications must be of the highest in order to fill these offices, should not be in any better position than that officer so far as his tenure of employment is concerned as a private individual. The justification for the right of a municipality to discharge its officers at any time without notice or cause has been said to be that the municipal corporation should be free to declare these offices vacant at any time without recourse by the officers against them, in order to be able to protect the ratepayers of the particular municipality, and in order that the departments of municipal government may function effectively on behalf of the public. Such a justification is rooted in our law, and has been present for many years, for such a power of removal or dismissal is not specifically laid down that will be implied as a power of the municipality.

It is submitted that the justification for this principle and for such a section and for section 239 quoted above has long since disappeared, in that a municipal corporation could be just as free to protect the interests of the public and the ratepayers within the territorial limits of the municipality if it were required to assign cause for the termination of the employment of a town engineer, or, in the alternative, to pay him a reasonable notice if it wish to replace him in that office by some other person or persons. It would not in any way be hampered in


its conduct of the town affairs, as any employer may discharge any employee at any time with or without cause, the only difference being that if no cause is present, then reasonable notice must be given, or, in the alternative, if there is an employment contract, due observance must be made of the terms of the employment contract.

It is respectfully submitted that such a section as 239 in the Municipal Act, insofar in any event as it applies to a professional engineer, ought to be amended, or that a further section ought to be inserted in the act giving to the municipality the power to make employment contracts with its officers, and providing that such contracts shall be binding and giving a measure of protection to an officer of the municipality, such as a town engineer, in his tenure of office.

It is further submitted that section 60 in the Municipal Act should be amended to provide that, when engineers are appointed, the person or person so appointed shall be registered under the Professional Engineers Act similar to the requirement in the Highway Improvement Act, or in the alternative the word 'professional' be inserted before engineers so that section 60 would read:

"(60) For appointing an Ontario land surveyor as surveyor for the corporation and for appointing one or more professional engineers."

This brief is respectfully submitted on behalf of the Association by


.....
L.C. Sentance, P. Eng.
President.

Association of Women Electors of Toronto

SUBMISSION

Presented to the Select Committee on the Municipal Act and Related Acts of the Ontario Legislature, June 1962, in Support of the Representations Submitted on Behalf of the Corporation of the City of Toronto

The Association of Women Electors of Toronto is an organization concerned with municipal government and better civic administration which has for over thirty years observed the government of Toronto at close range. Our observers attend and record meetings of Council, standing committees of Council and Boards on both the city and Metropolitan level. Regular reports are given by all observers at our monthly meetings and observers' reports for Metro and City Councils, Boards of Education, and minutes of the monthly meetings are printed and available to our subscribers at cost. For many years we have enjoyed the privilege of meeting at the City Hall -- we believe this is a recognition of a long record of service and impartiality. Special studies are undertaken by our standing committees and this submission is made on the basis of the studies and reports of the Elections and Franchise Committee, and the Committee on Planning and Housing.

Since 1940 our Association has pressed for the extension of the Municipal Franchise. In 1950 we prepared a report on such sections of the Municipal Act as dealt with municipal elections and our Association adopted seven resolutions. These resolutions recommended the extension of the franchise, the elimination of plural voting, the establishment of advance polls, the redistribution of electoral districts, reform of the voters' lists, and changes in the procedures with regard to resignations and the filling of vacancies.

In 1956 we undertook an extensive study of voting qualifications and conduct of municipal elections in 25 British, American, and Canadian cities. A tabulation of this study was compiled and forwarded to the Council of the City of Toronto.

The citizens of Toronto in 1956 voted to extend the franchise for all elective positions and our Association was disappointed in 1958 when Bill 160 failed to provide the full extension endorsed in the referendum, and to make provision for the Resident Voter to vote on questions other than money by-laws. At that time our Association submitted a brief to the Municipal Law Committee expressing our wish that the extension might be completed at a subsequent session.

More recently our Association submitted to the Committee on Public Welfare, Fire and Legislation of the Council of the City of Toronto certain proposals with regard to Municipal Elections, a copy of which is enclosed.

The Association of Women Electors had advocated the employment of women as District Returning Officers in the municipal elections. This practice was instituted in Toronto in the elections of 1961. Ten of our members qualified as District Returning Officers in order to observe and better understand the problems of the conduct of elections. On the basis of this experience a special report was prepared and submitted to the City Clerk.

We have had occasion to be concerned with certain other matters covered in the representations of the City of Toronto. In 1959, in conjunction with the Social Planning Council of Metropolitan Toronto our Association prepared a Report on Housing Improvement by Inspection, Repair, and By-Law Enforcement, and this report was presented to the Board of Control in May 1959. Many of the recommendations contained therein have been put into effect, but certain deficiencies in legislation have prevented others from being implemented.

* * * * *

Association of Women Electors of Toronto

- 2 -

With reference to the representations of the Corporation of the City of Toronto to your Committee we wish to make the following comments:

I. The Municipal Act.

- (1). Elections. We are in accord that voting qualifications for City Council and trustees of Local School Boards should be based on residency. The Resident Voter should be permitted to vote on all questions save money by-laws. (see enclosed brief)
- (2). Designating on Voters' list of offices for which electors are qualified to vote.
- (3). Tabulation of votes at a central location.
- (5). Consolidation of legislation dealing with municipal election.

On the basis of the experience of our members who acted as D.R.O.'s we would endorse these changes wholeheartedly.

- (7). Penalty for removing voters' lists.
- (8). Mailing of Voters' lists to electors.
- (9). Preparation of Voters' list before return of the roll.
- (10). Elimination from Voters' list of persons who cease to hold prescribed qualifications.

Our experience indicated posting of voter's lists was unsatisfactory. There were many reports of lists that had disappeared and individuals turned up at the polls unaware their names had been omitted. There was also evidence that methods of enumeration left much to be desired.

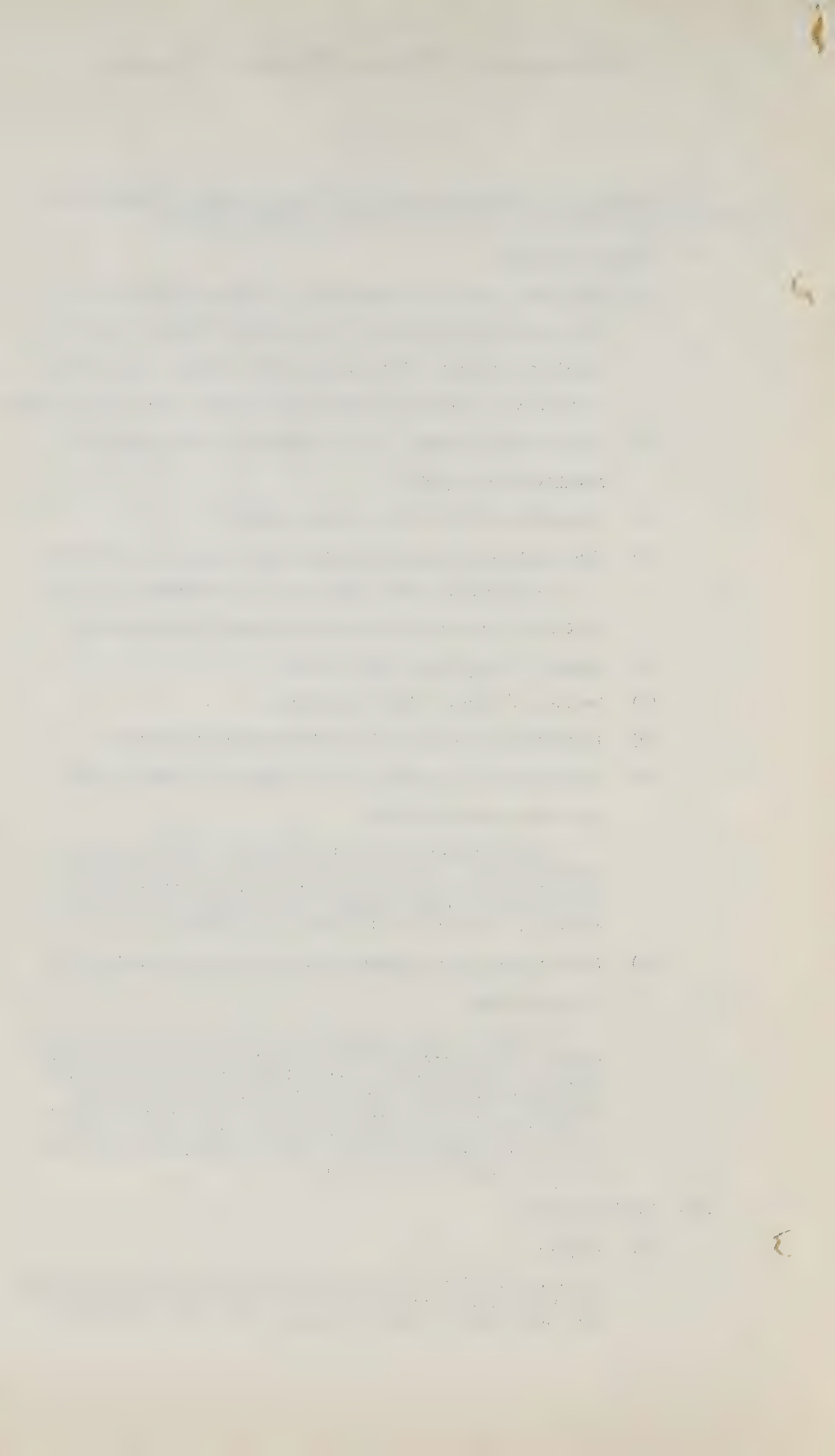
- (11). Establishment of a permanent registration system and use of voting machines

We endorse the recommendation for a permanent registration system. We can see that this procedure would be more easily adopted if qualifications for municipal franchise were based on residency and were the same as Federal and Provincial Franchise. The use of voting machines would eliminate much of the difficulty attendant on election procedure. If the cost could be shared by three levels of government this would result in significant economies.

III. The Planning Act

- (12). Zoning.

Our Association is on record as having pressed for enforcement of Zoning By-laws on many occasions. We support legislation that would help to enforce standards set out in the by-law.



Association of Women Electors of Toronto

- 3 -

(13). Building By-laws.

In our Report on Housing Improvement, Repair and By-law Enforcement we recommended that condemned, boarded-up houses be demolished. The City has experienced difficulty in implementing this suggestion because of the insufficiency of the provisions in Section 31. We concur that existing legislation should be amended and a more expeditious method for a municipality to obtain a court order to enforce building by-laws be provided.

Our Association wishes to support the submission of the City of Toronto in general and has taken this opportunity to single out certain recommendations that have been of special concern to us and to which we have extensive investigation.

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.....

Arleigh Eaton.....

Arleigh Eaton, Chairman
Elections and Franchise Committee

.....

Elizabeth H. Vickers,
President.



Association of Women Electors of Toronto

84 Walmer Road,
Toronto 4
April 18, 1961

Alderman Fred Beavis, Chairman,
and Members of the
Committee on Public Welfare, Fire and Legislation.

Dear Sir:

The Association of Women Electors of Toronto respectfully submit the following proposals with regard to Municipal Elections, for consideration by your Committee:

RESIDENT VOTER - We urge the City of Toronto to seek legislation which would

allow the Resident Voter the right to vote for Board of Education and on questions other than money by-laws.

All the reasons given for extending the franchise in the first place are just as valid now for extending it to Board of Education and questions.

The names of Public and Separate School supporters who own or rent property are taken from the assessment roll. This need not change. Part of the rent paid by any Tenant or Resident Voter goes toward paying the taxes of the owner of the house in which he lives, and since this tax is divided between the City and Board of Education, is it not logical to permit the Resident Voter as well as the Tenant to vote for his school trustee. The Resident Voter may have children at school and have a direct interest in better education.

Because the Resident Voter does not pay a direct school tax there is nothing on the voters' list to indicate which school he supports. We suggest that when he receives his other ballots at the poll he states whether he wants the Separate or Public School ballot.

VOTERS' LIST - If the qualifications for municipal franchise were the same as Federal and Provincial franchise, one enumeration would do for the three levels of Government. Since 1958 we have had four elections, two Municipal, one Federal and one Provincial. We suggest a Permanent Voters' List, and specially trained enumerators who would be available for work on the assessment roll, thus expediting the work of the Assessor. The cost of this would be shared by all three Governments.

PLURAL VOTE - We urge the abolition of the Plural Vote. The Plural Vote is as out of date and unrealistic as the old Property Vote.

In December 1943, the Honourable Donald Fleming, then an alderman on the Toronto Council, said 'Until there is a complete change in voting qualifications and in the Municipal setup, we should not abolish the plural vote'. Since there has now been a

radical change in the qualifications for voting, namely the addition of the Resident Voter, and as statistics show that the incident of Plural Vote is negligible, it would now seem to be the time to abolish it.

The only reason a person with property in more than one ward might vote for alderman in more than one ward, would be to protect his properties, i.e. he may think a certain alderman more inclined to fight for or against change of zoning which would affect his property. We think that our Elected Representatives have progressed beyond the thinking of the small, ward-boundary days, and to-day they work for the good of the whole community. This also applies to School Trustees, since school districts do not conform to ward boundaries.

Finally we feel that the Plural Vote may be abused, as it is most difficult for Deputy Returning Officers to determine which ballots should be issued to elect who qualify to vote where they do not reside.

Yours very truly,
Elizabeth Vickers (Mrs. G. Stephen V.
President.

THE BELL TELEPHONE COMPANY OF CANADA

LEGAL DEPARTMENT - WESTERN REGION

393 UNIVERSITY AVENUE, TORONTO 2, ONTARIO

F. A. BURGESS, Q.C.
GENERAL SOLICITOR

J. M. ARNOLD
R. C. DICK
L. J. LUGSDIN
SOLICITORS

AREA CODE 416
TELEPHONE 929-6530

July 23, 1962.

Hollis E. Beckett, Esq., Q.C., M.P.P.,
Chairman, Select Committee on Municipal
Act and Related Acts,
Parliament Buildings,
Queen's Park,
Toronto, Ontario.

Re: Taxation of Telephone Companies -
The Ontario Assessment Act

Dear Sir:

On page 7 of a Brief submitted to your Committee by the Association of Ontario Mayors and Reeves on May 9, 1962, it was advocated by the Association that Section 13 of The Assessment Act, R.S.O. 1960, chapter 23, should be repealed.

Section 13 of The Assessment Act reads as follows:

- "13. Notwithstanding the other provisions of this Act or any other general or special Act, the total amount of the taxes and rates levied and imposed in any year in respect of the gross receipts of a telephone company in a municipality shall not exceed an amount equal to 5 per cent of the total of the gross receipts of the company from its business in the municipality for the year ending on the 31st day of December next preceding the assessment, and the effect of such limitation is the responsibility of the municipality and shall be charged to its general funds and not to any body for which the council is

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required by law to levy and impose taxes and rates."

On behalf of The Bell Telephone Company of Canada, I wish to oppose any move to repeal or alter this section of The Assessment Act. I feel sure that this stand will also be taken by all the independent telephone companies in Ontario, of which there are at present more than 190.

At the outset, I wish to point out that in the calendar year 1961 The Bell Telephone Company of Canada paid in taxes to Ontario municipalities the sum of \$10,765,376, which amounted to approximately 1.27% of such municipalities' total revenues for that year as estimated by the Dominion Bureau of Statistics. For its fiscal year ending December 31, 1961, our Company paid to the Ontario Government taxes under the Corporations Tax Act amounting to \$6,629,816, which was equivalent to 0.728% of the total revenues of that government for the year ending March 31, 1962, as estimated by the Dominion Bureau of Statistics. These are impressive figures and clearly demonstrate that our Company has a vital interest in tax levels in the Province of Ontario.

The purpose of Section 13 of The Assessment Act is to give telephone companies in Ontario some reasonable measure of protection against having to bear an increasingly disproportionate share of the tax load in urban municipalities.

As you are aware, by Sections 4, 9(1)(k) and 10 of The Assessment Act, the telephone companies in Ontario are subject to the following municipal taxes in cities, towns, villages and police villages -

- a) A tax on real estate, based on the assessed value of the real property owned by the company;
- b) A business tax based on 25% of the assessed value of the real property occupied or used by the company; and
- c) A tax on gross receipts, based on 60% of the gross receipts of the company in cities, towns

villages and police villages under 100,000 population, and 75% of the gross receipts of the company in cities having a population of not less than 100,000.

The 5 per cent limitation of tax on the gross receipts of telephone companies provided for by Section 13 of The Assessment Act is necessary to protect telephone companies from having to pay an increasingly unfair share of municipal taxes in comparison with other businesses and property owners in the community. Only the telephone and telegraph companies are required to pay a municipal tax based on their gross receipts, which are definitely ascertainable amounts of actual value. All property owners pay a real estate tax based on the assessed value of their land and buildings which at best are not definitely ascertainable amounts because they are based upon the judgment of the assessor. In most municipalities the assessed value of land and buildings is relatively low because the values that are being used for assessment purposes are in most cases pre-war or 1940 values. Thus the tax rate in mills is struck at a figure high enough to bring in the required municipal revenue based on assessed values that may be as low as thirty per cent of the real values of the properties assessed, but when this mill rate is applied to the gross revenues of a telephone company it is applied on 60% or 75%, as the case may be, of the actual gross receipts of the telephone company, and as the need for increased revenue arises from year to year, the municipalities increase the tax rate in mills but seldom increase the general assessment rate on land and buildings. Thus, as the tax rate goes up from year to year, the telephone companies are saddled with an increasingly disproportionate share of the municipal tax load, because their gross receipts are assessed at a much higher percentage of actual value than the real property of other businesses and property owners. To give the telephone companies some measure of protection against this form of injustice, the five per cent limitation on taxation of gross receipts should be retained. The tax situation in the City of Toronto, where the assessed value of land and buildings is generally based on 1940 values and represents only about 40% of their present day actual values, is a typical example of this. The 1959 commercial tax rate

in the City of Toronto was 59.7 mills, and on the basis of this tax rate, The Bell Telephone Company of Canada paid to the City of Toronto a total of \$2,690,815.00 in taxes made up as follows:

(a) Real Estate Tax	\$ 615,351.00
(b) Business Tax	189,167.00
(c) Gross Receipts Tax (on 75% of gross receipts for year 1957)	<u>1,886,297.00</u>
TOTAL	\$2,690,815.00

In 1960, the commercial tax rate in the City of Toronto was increased to 61.8 mills, and on this basis The Bell Telephone Company of Canada paid \$2,894,495.00 in taxes made up as follows:

(a) Real Estate Tax	\$ 636,367.00
(b) Business Tax	197,197.00
(c) Gross Receipts Tax (on 75% of gross receipts for year 1958)	<u>2,060,931.00</u>
TOTAL	\$2,894,495.00

In 1961, the commercial tax rate in Toronto was increased to 64.2 mills, and on this basis, The Bell Telephone Company of Canada paid a total of \$3,304,830.00 in taxes, made up as follows:

(a) Real Estate Tax	\$ 661,671.00
(b) Business Tax	206,630.00
(c) Gross Receipts Tax (on 75% of gross receipts for year 1959)	<u>2,436,529.00</u>
TOTAL	\$3,304,830.00

In 1962, the commercial tax rate in Toronto was increased to 68.25 mills, and for the first time, the tax limitation of five per cent of gross receipts came into effect with respect to taxes paid to the City of Toronto by The Bell Telephone Company of Canada. The Company will pay to the City of Toronto in 1962 a total of \$3,878,299.00 in taxes, made up as follows:

(a) Real Estate Tax	\$ 779,530.00
(b) Business Tax	244,785.00
(c) Gross Receipts Tax (5% of total gross receipts for year 1960)	<u>2,853,984.00</u>
TOTAL	\$3,878,299.00

If the full 1962 tax rate of 68.25 mills had been applied to 75% of the Company's gross receipts for 1960, the Company's gross receipts tax for 1962 would have amounted to \$2,921,766.00 - a difference of \$67,782.00.

If municipalities revise their general assessment base on lands and buildings so as to bring their assessed values more in line with real values, they would then be able to strike a lower tax rate and so would not be affected by the five per cent limitation provision in Section 13 of The Assessment Act; but if they do not do so, and/or if the five per cent limitation on the gross receipts tax is abolished or increased, the Telephone Company will be saddled each year with a disproportionately greater share of the municipal tax load than other business and property owners whose taxes will continue to be based on real estate values established in the '40's.

Moreover, it should be noted that telegraph companies, which are also subject to a gross receipts tax, are taxed on only 50% of their gross receipts, whereas telephone companies are taxed on 60% or 75% of their gross receipts, depending on the size of the municipality. It would be unfair to further aggravate

this discrimination against the telephone companies by removing the limitation imposed by Section 13 of The Assessment Act on the taxation of the gross receipts of telephone companies.

It should also be noted that of the taxes which The Bell Telephone Company of Canada pays to the Ontario Government under The Corporations Tax Act, and which for the year ending December 31, 1961 amounted to \$6,629,816, a considerable portion flows through to the municipalities under the provisions of The Municipal Unconditional Grants Act.

Re Public or Pay Telephones

On page 8 of their Brief the Association of Ontario Mayors and Reeves recommends that each municipality should have the right to collect taxes on business assessment of every public or pay telephone.

Section 10 of The Assessment Act, which provides for assessment on gross receipts of telephone companies, provides in subsection 13 that "every company assessed as provided in this Section is exempt from assessment in any municipality in respect of all machinery, plant and appliances wherever situate . . ." Public or pay telephones are "plant" within the meaning of this exemption to the same extent as poles, wires, cables or any other telephone facilities, and if the municipalities were entitled to tax such telephones separately it would mean double taxation - once as plant and once as public or pay telephones. This would obviously be unjust. The revenues from such telephones form part of a telephone company's gross receipts and are now subject to assessment but the instruments themselves should not be separately assessed. Furthermore, under the Act the minimum business assessment is \$100, and it would be manifestly unfair to assess every public or pay telephone at that amount. I would also point out that where such telephones are installed on the public streets of the municipalities we enter into an agreement with the municipalities whereby they are entitled to a share of the receipts collected from such telephones.

I trust that these matters will be taken into consideration by your Committee, and that no recommendation will be made in its report that Section 13 of The Assessment Act should be repealed or the percentage figure contained therein should be increased, or that municipalities be given the right to tax public or pay telephones.

Yours truly,

F. A. Burgess.

General Solicitor -
Western Region.

The American Medical Association is a non-profit corporation organized for the purpose of promoting the interests of the medical profession and the public. It is composed of members who are physicians, dentists, and other health care professionals. The Association's primary concern is the advancement of the medical profession and the improvement of the health of the people. It does this by publishing the Journal of the American Medical Association, which is one of the most important sources of medical information in the world. The Association also works to improve the standards of medical education and to promote the highest standards of medical practice.

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BOLSOVER RESORT ASSOCIATION
Township of Eldon,
- County of Victoria - - -

October 26, 1962.

To: The Select Committee on the Municipal Act & Related Acts.

The Bolsover Resort Association has a membership of 235 families, all cottage owners and thus taxpayers to the Township. We became organized in June, 1962, primarily to look into methods of securing a more fair equalization of assessment than that brought down in the Township re-assessment which took place in 1961. However, in seeking information on this subject, related items came up for discussion. We therefore wish to submit, on behalf of all our members, the following suggestions for review by your Committee.

1. Section 48 (1) of the Assessment Act outlines the manner in which Notice of Assessment is prepared and sent.
Form 2 on page 151 provides a space for acreage or street frontage, it does NOT provide a space for building square footage, although in the breakdown of Real Property Assessment it shows a column for Land- for Buildings - for Total.
We would like to see a column for Building square footage in future printings of the form as this forms the basis for building assessment and without this information it is not until an appearance at Court of Revision that errors by assessor come to light.
2. We believe there should be a Section added to the Assessment Act dealing specifically with summer residences. The Assessor's Manual is related to the Act we presume, and at a meeting with the County Assessor we were given to understand that there is nothing therein that permits him to assess a cottage any differently than a town residence. From what he had to say it would appear that, also, too much is left to the judgment of the individual assessor.
3. Section 20 (4-5-6-7) These paragraphs refer to subdivisions and also refer to Section 143, the sum total of which seemsto be that lots, if subdivided, should be entered separately and assessed separately. It does not make any provision that all lots being similar and therefore equal in value should be assessed in the same amount.
It would seem that wording should be included in the paragraphs applicable setting out that all vacant lots in any one subdivision, of equal value, be assessed equally, regardless of who owns them.
Reference example: On our assessment roll two lots side by side, vacant land, show the subdivider's unsold lot assessed at \$50. and the individual who purchased a lot but had not built on it is assessed at \$375.00, 75 feet waterfrontage at \$5.00 a foot.

Question: Form 2 on page 151 reads "street" frontage which we interpret as being 'road' frontage. Why then does the assessor take the water frontage on cottages. Instance: On the plan a lot shows 40 feet width but tapers and is on a bend of the canal. Instead of charging the 'road' frontage the assessor charged almost 200 feet water frontage.
4. The British North American Act calls for every taxpayer to be taxed for schools. This was written many years ago, before cottage living became popular resulting in a large proportion of the population being 'two home' owners.
It is our sincere belief that it was not originally intended that a man should support two school areas.
We would therefore suggest that serious consideration be given to changing the act so that an owner will pay tax in the area in which he resides during the school year, and be exempt from the area in which he spends the lesser portion of the year.

BOLSOVER RESORT ASSOCIATION
Brief - Continued:

5. Sections 61 (3) - 64 (2) - 65 (3) - 65A (4) all refer to eligibility for Court of Revision. (Assessment Act)
If NO member of a City Council may sit on the City Court of Revision; if NO member of the County Council may sit on the County Court of Revision; and NO member of a Township Council sit on a County Court of Revision, WHY is there no rule against a member of the Township Council sitting on the Township Court of Revision?
Clarification seems necessary here, and the Act revised to include that NO member of a Township Council may sit on a Township Court of Revision.
In our Township the entire Township Council, with the Reeve as chairman, sat as a Court of Revision on Appeals on Assessment, which certainly does not seem right.
6. Section 37 (1) The Municipal Act, outlines qualifications to be entered on the Voters' List. Paragraph (d) most clearly defines the wife or husband of an owner as also being entitled to vote.
Section 20 (9) The Assessment Act, Bill 107 on amendment, says basically the same in instructing Assessor to make entry on the roll, but continues: "unless the wife or husband does not reside in or within five miles of the municipality."
If a person having two residences is considered to reside in each there is no problem - BUT it does provide room for confusion of interpretation.
We request that consideration be given to eliminating the quoted phrase, leaving the directive clear-cut.
(Surely the wife or husband of an owner taxpayer has a right to a Municipal vote even more than others outlined, such as farmers' children, renters, etc.)
7. The Township Clerk advised us that the first draft of the Voters' List will be displayed in his office for 10 to 14 days prior to final printing, when it may be checked for errors or omissions. If this is written in the Act we suggest consideration be given to revising it to read "In a public place" (like the village Post Office). When the Clerk's office is in his home ready access for list checking purposes is not always possible. Most rural appointments are part time, so no specific office hours are kept when the public may just walk in.
Question: Section 37 (7) refers to a voter having been missed from the list being permitted to ask for Form 10 to be completed, thus giving him a vote. What must he show to satisfy the Clerk of his right to vote? How soon after he finds his name missing must he apply, or may it be completed on the day of the Advance Poll?
8. The Municipal Act now calls for Elections to be held the first Monday in January, except as changed by By-Law. We would appreciate consideration being given to revising the Act to specify that Resort area municipalities hold Elections in June rather than January. Resort areas eligible could be designated as those with fifty percent or more of the voting population comprised of cottage owners.
9. Clarification only requested:
Section 215 (1) (a) Municipal Act. Regarding duties of Clerk.
"To truly record in a book, without note or comment, all resolutions, decisions and other proceedings of the council."
An interpretation of this paragraph would be appreciated.

Respectfully submitted.

BOLSOVER RESORT ASSOCIATION

Esther H. Gales
Secretary
(Mrs. Stanley Gales).

June 19th, 1961

The Business and Professional Women's Club

London, Ontario

June 15, 1961

Hollis Beckett, Q. C., M. P. P.
Chairman, Select Committee on the Municipal
Act and Related Acts
Room 377, Parliament Buildings
Toronto 5, Ontario

Dear Sir:

The London Business and Professional Women's Club respectfully submits for the consideration of the Select Committee of the Legislature on the Municipal Act and Related Acts

"That the Ontario Legislature implement legislation to provide that resident voters shall be entitled to vote at municipal elections, except on money by-laws and on money questions; such legislation to place the resident voters in the same category, for voting purposes, as tenants and M.F.N.C. voters;

Also that the qualification for resident voters which now reads 'shall be a British subject' be changed to 'shall be a Canadian citizen'".

Respectfully submitted

Marguerite Lawler

(Miss) Marguerite Lawler
President, London Business
& Professional Women's Club
Apt. # 1
361 Queens Avenue
London, Ontario

ONTARIO
LEGISLATIVE ASSEMBLY
SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS

SUBMISSION ON BEHALF OF
THE CANADIAN BANKERS' ASSOCIATION

The Canadian Bankers' Association presents the following submissions in response to the invitation of the Select Committee on The Municipal Act and related Acts. The Association's submissions relate solely to section 329 of The Municipal Act.

1. Section 329 of The Municipal Act contains provisions with respect to the borrowing by a municipality of sums necessary to meet current expenditures by way of temporary loans until the taxes are collected.

The predecessor section to present section 329 was section 341 of The Municipal Act, R.S.O. 1950, cap. 243.

2. The former section 341 read in part as follows:-

"(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note such sums as the council may deem necessary to meet, until the taxes are



collected, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

(2) The amount which may be borrowed in any year for the purposes mentioned in subsection 1 shall not, except with the approval of the Municipal Board, exceed 70 per cent of the total amount of the estimated revenues of the corporation as set forth in the estimates adopted for the year.

(3) Until such estimates are adopted, the limitation upon borrowing prescribed by subsection 2, shall temporarily be calculated upon the estimated revenues of the corporation as set forth in the estimates adopted for the next preceding year."

3. The section was amended by Statutes of Ontario 1958, cap. 64, s.23(1), which added to former s.341 the following subsections:

"(2a) The amount which may be borrowed at any one time for the purposes mentioned in subsection 1, together with the total of any



similar borrowings that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per cent of the uncollected balance of the estimated revenues of the corporation as set forth in the estimates adopted for the year.

(2b) At the time, after the 30th day of June in any year, that any amount is borrowed under this section, the treasurer shall furnish to the lender a copy of the by-law authorizing the borrowing and a statement showing the nature and amount of the estimated revenues of the current year not yet collected or, where the estimates for the year have not been adopted, a statement showing the nature and amount of the estimated revenues of the corporation as set forth in the estimates adopted for the next preceding year, and also showing the total of any amounts borrowed under this section that have not been repaid."

4. In the 1960 revision of the statutes the section was re-numbered 329, the subsections (2a) and (2b) enacted in 1958 were re-numbered as subsections (3) and (4) and the former subsection (3) was re-numbered as subsection (5).

5. The introduction of what is now subsection (3) by the amendment of 1958 would appear to have resulted in a conflict between the provisions of subsection (2) and subsection (3).

The conflict is that two limits are now imposed on the amount a municipality may borrow under the section.

6. The limit imposed by subsection (2) is, in any year, 70 per cent of the total amount of the estimated revenues of the corporation as set forth in the estimates adopted for the year.

Under this subsection if a municipality has borrowed 70 per cent of its estimated revenues, then, even if it repays part of that amount, it is not permitted to borrow more.

7. The limit imposed by subsection (3), on the other hand, is, at any one time, an amount which, together with the total of any similar borrowings which have not been repaid, does not exceed 70 per cent of the uncollected balance of the estimated revenues.

The uncollected balance of the estimated revenues may, of course, in some cases be the total amount of the estimated revenues. It follows that the amount on which the 70 per cent is to be calculated under the two subsections may in some cases be the same amount.

In other cases, of course, the uncollected balance of the estimated revenues will be less than the total amount of the estimated revenues. In those cases the amounts on which the 70 per cent is to be calculated will be different.

8. For the purpose of the calculation to be made under subsection (3), previous borrowings that have been repaid are excluded whereas for the purpose of the calculation to be made under subsection (2) they must be included.
9. In the result, therefore, a loan that may be within the limit imposed by subsection (3) may, nevertheless, be in excess of the limit imposed by subsection (2).
10. It would appear likely that subsection (3) was introduced in 1958 with the intention of relieving municipalities from the strict limit imposed by subsection (2) which did not permit a municipality, when it had funds available, to temporarily repay a loan in order to save interest and then to re-borrow the amount at a later date if, in so doing, it exceeded 70 per cent of its estimated revenues.



11. However, the introduction of subsection (3) without repealing subsection (2) caused, as has already been submitted, a conflict between the two subsections.

Subsection (3), since it permits a municipality to temporarily repay loans in order to save interest, would appear to be the more logical provision and would appear in itself to impose a sufficient limit on temporary borrowings by a municipality.

For these reasons, it is submitted, subsection (2) should now be repealed.

12. The limit upon borrowings under subsection (3) is calculated upon "the uncollected balance of the estimated revenues of the corporation as set forth in the estimates adopted for the year."

It would appear clear that the "uncollected balance" is to be calculated at the time the borrowing is made.

13. It is understood, however, that there is some difference of opinion on this point among auditors of municipal accounts.

In some cases, in making their report as of the end of the year, auditors have included a comment to the effect that the temporary loans under section 329 exceeded the limit imposed by that section because the

temporary loans outstanding as at 31st December exceeded 70 per cent of the uncollected balance of the estimated revenues as at that date.

14. Such a comment, based on such grounds, would appear to result from a misinterpretation of subsection (3).

The inclusion of such a comment in an auditor's report, however, causes concern to lenders and some clarification should be made to the effect that the "uncollected balance" referred to in subsection (3) is the uncollected balance at the time a particular borrowing is made.

15. It is further understood that some auditors have included in their report a comment to the effect that the limit imposed by section 329 has been exceeded because the outstanding loans were in excess of 70 per cent of the net realizable assets of the municipality.

In these cases, it would appear that the auditors, in calculating the uncollected balance of estimated revenues, have deducted amounts in respect of existing payables and even in respect of estimated expenditures not yet incurred.

Again, there is nothing, it is submitted, to warrant such an interpretation of subsection (3) but some clarification would appear desirable.

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16. Subsection (3) does not make it clear whether the words "similar borrowings that have not been repaid" are intended to include only similar borrowings in the current year or to include similar borrowings in any previous year that have not been repaid.

17. If the latter is the correct view, it would seem logical to extend the basis on which the 70 per cent is to be calculated so as to include the uncollected balance of the estimated revenues of previous years as well as the uncollected balance of the estimated revenues for the current year. The result of such an amendment would, however, be a most cumbersome provision.

In order to make it clear that the similar borrowings referred to include only those of the current year, subsection (3) should, it is submitted, be amended by inserting, following the word "borrowings" in the third line, the words "in the current year".

18. If subsection (3) is so amended, a corresponding amendment should, it is submitted, be made to subsection (4) by inserting, prior to the word "that" at the beginning of the last line, the words "in the current year".



19. Subsection (4) (originally enacted as subsection (2b) in 1958) provides that where the estimates for the year have not been adopted, the treasurer shall furnish a statement showing the nature and amount of the estimated revenues as set forth in the estimates adopted for the next preceding year.

The reason for such a provision in subsection (4) is to be found in subsection (5) which provides that "Until such estimates are adopted, the limitations upon borrowing prescribed by subsections 2 and 3 shall temporarily be calculated upon the estimated revenues of the corporation as set forth in the estimate adopted for the next preceding year."

20. The operation of subsection (5) with respect to the limitation prescribed by subsection (2) is clear.

The limitation prescribed by subsection (2) is "70 per cent of the total amount of the estimated revenues of the corporation as set forth in the estimates adopted for the year." Where the estimates for the year have not been adopted the effect of subsection (5) is that the limitation of 70 per cent is temporarily to be calculated upon the estimated revenues as set forth in the estimate adopted for the preceding year.



21. The operation of subsection (5) with respect to the limitation prescribed by subsection (3) is, however, not clear.

The limitation prescribed by subsection (3) is "70 per cent of the uncollected balance of the estimated revenues of the corporation as set forth in the estimates adopted for the year."

22. Where the estimates for the year have not been adopted, the effect of subsection (5), in one view, is that the limitation of 70 per cent is temporarily to be calculated upon the estimated revenues as set forth in the estimate adopted for the preceding year.

In this view, subsection (5) is applied by substituting the words "the estimated revenues of the corporation as set forth in the estimate adopted for the next preceding year" appearing in subsection (5) for the words "the uncollected balance of the estimated revenues of the corporation as set forth in the estimates adopted for the year" appearing in subsection (3).

23. If subsection (5) is applied in this way, subsection (3) would read as follows:

"The amount that may be borrowed at any one time for the purposes mentioned in subsection 1, together with the total of any similar borrowings that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per

[The text on this page is extremely faint and illegible. It appears to be a list or a series of entries, possibly related to a historical record or a scientific study. The text is organized into several paragraphs, with some lines indented, suggesting a structured format. Due to the low contrast and blurriness, the specific content cannot be transcribed.]

cent of the estimated revenues of the corporation as set forth in the estimate adopted for the next preceding year."

24. If this is the correct view of the operation of subsection (5) when applied to subsection (3), the result is that, in some cases, a municipality may be able to borrow larger amounts before its estimates are adopted than after they are adopted.

After its estimates are adopted, subsection (3) provides that a municipality may not borrow more than 70 per cent of the uncollected balance of the estimated revenues for the current year. That figure may, because of revenues already received, be a smaller figure than the total estimated revenues adopted for the preceding year which, in the view outlined above, is the basis on which the 70 per cent is calculated before the estimates are adopted.

25. It could not, it is submitted, be seriously contended that the effect of subsection (5) as applied to subsection (3) is that the limitation of 70 per cent is temporarily to be calculated upon the uncollected balance of the estimated revenues as set forth in the estimate adopted for the preceding year.

This is the result if subsection (5) is applied by substituting the words "the estimated revenues of the corporation as set forth in the estimate adopted for the next preceding year" appearing in subsection (5)

for the words "the estimated revenues of the corporation as set forth in the estimates adopted for the year" appearing in subsection (3).

26. If subsection (5) is applied in this way, subsection (3) would read as follows:

"The amount that may be borrowed at any one time for the purposes mentioned in subsection 1, together with the total of any similar borrowings that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per cent of the uncollected balance of the estimated revenues of the corporation as set forth in the estimate adopted for the next preceding year."

27. Although subsection (5), taken by itself, might appear to indicate that such an application is the correct one, it would lead to the absurd result that a municipality, before its estimates were adopted, would only be able to borrow 70 per cent of the very small balance of its estimates for the preceding year which had not been collected.

28. It has been suggested, however, that what was intended at the time of the enactment of the present subsections 3 and 4 in 1958 was that, where the estimates for the year have not been adopted, the limitation of 70 per cent in subsection (3) should temporarily be calculated

[The text on this page is extremely faint and illegible. It appears to be a list or a series of entries, possibly related to a historical or scientific record. The content is too blurry to transcribe accurately.]

upon the estimated revenues as set forth in the estimate adopted for the preceding year, less the total revenues of the current year already collected.

It is difficult, if not impossible, to see how the present language of subsection (5) could justify such an interpretation.

29. Such a basis for the calculation would be similar to the basis prescribed by subsection (3) where the estimates for the year have been adopted, namely, the uncollected balance of the estimated revenues.

Moreover, such a basis for the calculation would be a logical one and would not lead to the anomalous and absurd results outlined in paragraphs 24 and 27 above.

30. In order that subsection (5), when applied to subsection (3), will have the result just indicated, subsection (5) should, it is submitted, be amended to read as follows (the reference to subsection (2) has been deleted since, as has already been submitted, subsection (2) should be repealed):

"Until such estimates are adopted, the limitation upon borrowing prescribed by subsection 3 shall temporarily be calculated upon the estimated revenues of the corporation as set forth in the estimate adopted for the preceding year less the amount of revenues of the current year already collected."

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31. It is further submitted that subsection (5), as so amended, might more logically appear in the section prior to rather than following the present subsection (4).
32. If subsection (5) is so amended, a corresponding amendment should, it is submitted, be made to subsection (4) by inserting, following the words "next preceding year" in the ninth line, the words "and the amount of revenue of the current year already collected."
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33. There are two further amendments which, it is submitted should be made to subsection (4).

Firstly, the words "after the 30th day of June" in the first line should be deleted. There would appear to be no reason why the treasurer should not be required to furnish to the lender a copy of the by-law and a statement at the time that any amount is borrowed under the section, whether before the 30th day of June or after that day.

34. Secondly, the words "unless he has previously done so" should be inserted in the fourth line following the word "borrowing" to make it clear that the treasurer is only required to furnish a copy of the borrowing by-law once in the year.
-

35. Subsection (4) does not make it clear whether a lender which has been furnished with a copy of the by-law and a statement from the treasurer is entitled to rely on the copy of the by-law as proof that the borrowing is validly authorized and on the statement as proof of the facts stated therein.

36. Subsection (7) provides that "The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application."

This subsection, which was in the Act prior to the enactment of subsection (4) in 1958, does not permit the lender to rely on the material furnished to it under subsection (4).

37. Since subsection (4) requires the treasurer of the municipality to furnish to the lender a copy of the by-law and a statement as therein prescribed, the intention would appear to be that the lender may rely on the copy of the by-law and the statement so furnished.

38. In order to clarify what would appear to be the intention, subsection (7) should, it is submitted, be amended to read as follows:

"The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application and may rely on a copy of the by-law furnished by the treasurer under subsection 4 as proof that the borrowing is validly authorized.

The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, which are based on the principle of the uncertainty of the position and momentum of the particles.

In the second part of the paper, the author discusses the problem of the structure of the nucleus. It is shown that the structure of the nucleus is determined by the laws of quantum mechanics, which are based on the principle of the uncertainty of the position and momentum of the particles.

The third part of the paper is devoted to a discussion of the problem of the structure of the molecule. It is shown that the structure of the molecule is determined by the laws of quantum mechanics, which are based on the principle of the uncertainty of the position and momentum of the particles.

In the fourth part of the paper, the author discusses the problem of the structure of the crystal. It is shown that the structure of the crystal is determined by the laws of quantum mechanics, which are based on the principle of the uncertainty of the position and momentum of the particles.

The fifth part of the paper is devoted to a discussion of the problem of the structure of the liquid. It is shown that the structure of the liquid is determined by the laws of quantum mechanics, which are based on the principle of the uncertainty of the position and momentum of the particles.

The sixth part of the paper is devoted to a discussion of the problem of the structure of the gas. It is shown that the structure of the gas is determined by the laws of quantum mechanics, which are based on the principle of the uncertainty of the position and momentum of the particles.

and on a statement furnished by the treasurer under subsection 4 as proof of the facts stated therein."

39. The amendments which, according to these submissions, should be made to section 329 may be summarized as follows:
- (a) Subsection (2) to be repealed.
 - (b) Subsection (3) to be amended as indicated in paragraph 17 hereof and re-numbered as subsection (2).
 - (c) Subsection (5) to be amended as set out in paragraph 30 hereof and re-numbered as subsection (3).
 - (d) Subsection (4) to be amended as indicated in paragraphs 18, 32, 33 and 34 hereof.
 - (e) Subsection (6) to be re-numbered as subsection (5).
 - (f) Subsection (7) to be amended as set out in paragraph 38 hereof and re-numbered as subsection (6).

40. If these amendments are made, the first six subsections of section 329 will read as follows:

"(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the

head and treasurer to borrow from time to time by way of promissory note such sums as the council may deem necessary to meet, until the taxes are collected, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

(2) The amount that may be borrowed at any one time for the purposes mentioned in subsection 1, together with the total of any similar borrowings in the current year that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per cent of the uncollected balance of the estimated revenues of the corporation as set forth in the estimates adopted for the year.

(3) Until such estimates are adopted, the limitation upon borrowing prescribed by subsection 2 shall temporarily be calculated upon the estimated revenues of the corporation as set forth in the estimate adopted for the preceding year less the amount of revenues of the current year already collected.

- (4) At the time, in any year, that any amount is borrowed under this section, the treasurer shall furnish to the lender a copy of the by-law authorizing the borrowing, unless he has previously done so, and a statement showing the amount of the estimated revenues of the current year not yet collected or, where the estimates for the year have not been adopted, a statement showing the amount of the estimated revenues of the corporation as set forth in the estimates adopted for the next preceding year and the amount of revenues of the current year already collected, and also showing the total of any amounts borrowed under this section in the current year that have not been repaid.
- (5) For the purposes of this section, estimated revenues do not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of taxes and proceeds from the sale of assets.
- (6) The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application and may rely on a copy of the by-law furnished by the treasurer under subsection 4 as proof that the borrowing is validly authorized

and on a statement furnished by the treasurer
under subsection 4 as proof of the facts stated
therein."

All of which is respectfully submitted this 26th day
of September, 1962.

THE CANADIAN BANKERS' ASSOCIATION

by C. F. H. Carson
44 King Street West, Toronto
Associate General Counsel
of the Association.

RIDER TO BE INSERTED AT
FOOT OF P. 14 OF BRIEF

34A. Thirdly, the words, "as frequently as required by the lender" should be inserted in the fourth line following the words "the borrowing and" in order to avoid unnecessary duplication in cases where, for example, a larger municipality may be making new borrowings almost daily.

If this amendment is made, it will, of course, be for the lender to decide how frequently he will require a statement from the treasurer.

SUBMISSION

to the Select Committee on the
Municipal Act and related Acts

Re: Business Assessment
under the Assessment
Act

1. This submission is made by The Canadian Fraternal Association on behalf of its member societies, particularly those societies that have their home offices in Ontario, viz.,

Canadian Order of Foresters, Brantford
Canadian Woodmen of the World, London
Grand Orange Lodge of British America, Toronto
Independent Order of Foresters, Toronto
The Reliable Life Insurance Society, Hamilton
Sons of Scotland, Toronto
Union du Canada Life Assurance-Vie, Ottawa

2. The Association was organized upwards of seventy years ago and represents most societies offering fraternal, as well as mortuary, benefits to their members in the province. Member societies not named in paragraph 1 are:

Aid Association for Lutherans
Catholic Order of Foresters
Croatian Fraternal Union of America
Knights of Columbus
Lutheran Brotherhood
Order of United Commercial Travelers of America
Royal Arcanum
La Societe des Artisans Canadiens - Francais
La Societe l'Assomption
Sons of Norway
Woman's Benefit Association

1. The term "insurance company" is defined in clause (g) of section 1 of the Assessment Act to include any "fraternal society" transacting insurance in the province.

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4. Section 9 (1)(c) of the Act provides that every insurance shall be assessed in respect of business tax for a sum equal to 75% of the assessed value of the land occupied while numerous business enterprises are assessed at much lower rates. Mr. F. H. Fennis of the Canadian Tax Foundation said at the Fourteenth Annual Tax Conference convened by the Foundation last November, "I contend that the differential rates of Ontario business assessments are based on archaic principles and on prejudice. There is no rhyme nor reason nor equity in these rates. There may have been in 1904 but not today." (Journal of Proceedings p. 234)
5. Fraternal societies are non-profit, non-commercial organizations that exist solely for the benefit of their members and, while they are prepared to pay their fair share of the cost of maintaining municipal services, they submit that there is no justification for including them in the 75% category.

C. H. Fitch,
Secretary-Treasurer,
786 King Street East,
Hamilton, Ontario.

September 14, 1961.

MEMORANDUM

To: The Select Committee on The Municipal Act and Related Acts.

From: The Canadian Life Insurance Officers Association

Re: The Assessment Act - Business Assessment

1. The Association represents virtually every life insurance company, Canadian, British, United States and European, doing business in Ontario. These companies have 45 head offices and about 450 branch offices in the Province.
2. The life insurance companies do not protest against a business tax based on the value of premises occupied if a business tax is deemed to be necessary. However, they feel strongly that it should be based on a single percentage of the realty assessment for all business and not on the present classification system.
3. It is said that the present classification bears some relation to "ability-to-pay". This is demonstrably wrong and in fact no classification by type of business could ever achieve this end.
4. The present system of classification is arbitrary and discriminatory. The inclusion of life insurance companies in the 75% category is, for the reasons indicated in paragraphs 7, 8 and 9 below, an excellent example of the unfairness of the present classification.
5. There is no more justification for a graduated classification in the business tax field than in the real property tax field. Both taxes are levied to pay for municipal services and most of these services do not vary appreciably with the type of occupant of the premises taxed.

6. The companies recognize that a change-over to a flat tax presents problems and recommend that a period of years, say five, be used to make gradual adjustments. The change-over should not, it is submitted, involve any increase in the over-all ratio of business taxes to real estate taxes.
7. Failing a change-over to a flat tax, the life insurance companies submit that they should be placed in a much lower category than at present. Life insurance companies perform a useful service in providing a vehicle for thrifty people to put aside part of their income for their dependents or for their own old age. These people pay as citizens all the taxes citizens generally are required to pay and any special tax imposed on the companies is automatically a tax on thrift. Business tax on life insurance companies at a higher rate than is applicable to business generally is, it is submitted, a special levy on thrift.
8. Life insurance is largely mutual in character. A reduction in taxes would therefore be reflected in a lower cost of insurance for participating policyholders.
9. The municipal services required by life insurance offices are the minimum services required by all types of businesses. At the very least, the companies should be in the lowest category applicable to office space.

August 23, 1961.

Rec June 13, 1962

C.R.C.A.

CANADIAN RETAIL COAL ASSOCIATION INC.

159 BAY STREET, TORONTO 1, ONTARIO - EMPIRE 6 - 4981

March 15, 1962

Hollis E. Beckett, Q.C., M.P.P.
Chairman, Select Committee on
The Municipal Act and Related Acts
Room 377 Parliament Buildings
TORONTO 5, Ontario

Dear Mr. Beckett:

Further to my letter of March 6th, I take pleasure in presenting below certain observations which appear to be pertinent to the Select Committee on the Municipal Act and Related Acts, of the Ontario Legislative Assembly, of which you are Chairman:

Extract from Section 9 of the Assessment Act, R.S.O. 1960

9. (1) Irrespective of any assessment of land under this Act, every person occupying or using land for the purpose of, or in connection with, any business mentioned or described in this section shall be assessed for a sum to be called "business assessment" to be computed by reference to the assessed value of the land so occupied or used by him, as follows:

.....

(f) Every person carrying on the business of what is known as a departmental store or of a retail merchant dealing in more than five branches of retail trade or business in the same premises or in separate departments of premises under one roof, or in connected premises, where the assessed value of the premises exceeds \$20,000, or of a retail coal or fuel oil or wood or lumber dealer, lithographer, printer or publisher, except the publisher of a newspaper, for a sum equal to 50 per cent of the assessed value; but in cities having a population of not less than 100,000, retail coal or fuel oil dealers shall be assessed for a sum equal to 30 per cent of the assessed value.

May I now refer you to the relevant sections dealing with crude oil, or liquid or gaseous hydro carbons:

9. (1)

(1) Every person carrying on the business of transporting, transmitting or distributing by pipe line crude oil or liquid or gaseous hydro carbons or any product or by-product thereof or natural or manufactured gas or liquefied petroleum gas or any mixture or combination or the foregoing, for a sum equal to 25% of the assessed value of the land excluding any pipe line liable to assessment under Section 40 or 41.

(Note: Pipe line referred to in Section 41 is described as a pipe line for the transportation or transmission of gas that is designated by the Ontario Energy Board as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes all valves and other incidental attachments and appliances in connection therewith.)

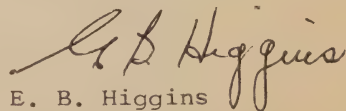
It would therefore appear, on the basis of preliminary studies, that natural gas transmission lines enjoy a business assessment rate of 25% --- whereas a retail coal or fuel merchant may be assessed anywhere from 30% to 50% of assessed value, depending upon the size of the town in which he lives.

Interestingly enough, a survey of a number of our members indicates that most of them are paying at the rate of 50%. One dealer reports that his rate is 35%.

We would appreciate any consideration which your Committee could give to this submission. If an oral presentation is indicated, may we please be advised in order that we might make arrangements to appear before your Select Committee.

Thank you very much for the consideration which I know you will give to this submission.

Yours sincerely,



E. B. Higgins
Managing Director

EBH/van

SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

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BRIEF SUBMITTED BY THE
CANADIAN TEXTBOOK PUBLISHERS' INSTITUTE

1. The Canadian Textbook Publishers' Institute, with headquarters in Toronto, includes in its membership most of the Canadian publishers who publish textbooks, principally in the English language, for the schools and other educational institutions of Ontario and Canada. Most of these companies also supply supplementary and library books to the aforementioned educational institutions and some operate separate divisions which publish and distribute books of a general nature that reach the general public through bookstores and public libraries.
2. This Brief is submitted on behalf of those members of the Canadian Textbook Publishers' Institute who do not have any part in the actual manufacturing of books in respect to typesetting, printing, plate-making, binding or any process which can be classed as the manufacturing of books. These publishing companies restrict their activities to the securing of manuscripts and illustrations (mainly for educational publications), editing same and generally preparing said material for book manufacture. In all cases these books are totally manufactured off the premises of the aforementioned members of the Canadian Textbook Publishers' Institute. The actual manufacturing of these books is done by typesetters, printers, plate-makers,

lithographers who maintain businesses which are completely separate from those of the aforementioned members of the Canadian Textbook Publishers' Institute.

These non-manufacturing members of the Canadian Textbook Publishers' Institute also import publications from other countries (principally Great Britain and the U.S.A.), and distribute such publications to schools, public libraries and stores across Canada.

3. The members of the Canadian Textbook Publishers' Institute who publish but do not have any part in the manufacture of books are:

The Book Society of Canada Ltd.

J. M. Dent & Sons (Canada) Ltd.

The House of Grant (Canada) Ltd.

Longmans, ~~Green & Co.~~

The Macmillan Company of Canada Ltd.

McClelland & Stewart Ltd.

Thomas Nelson & Sons (Canada) Ltd.

Oxford University Press

Holt, Rinehart and Winston of Canada Ltd.

4. The non-manufacturing members of the Canadian Textbook Publishers' Institute respectfully draws the attention of the Select Committee on the Municipal Act and Related Acts to the present situation in regard to business assessments as detailed in the Revised Statutes of Ontario, 1960, Chapter 23, which is referred to as "The Assessment Act". This details the percentage of the assessed value of business property to which a local mill rate will apply to determine the annual municipal "business tax" payable by a business.

The non-manufacturing members of the Canadian Textbook Publishers' Institute are assessed under Section 9 (f) of this Act which reads:

"Every person carrying on the business of what is known as a departmental store or of a retail merchant dealing in more than five branches of retail trade or business in the same premises or in separate departments of premises under one roof, or in connected premises, where the assessed value of the premises exceeds \$20,000, or of a retail coal or fuel oil or wood or lumber dealer, lithographer, printer or publisher, except the publisher of a newspaper, for a sum equal to 50 per cent of the assessed value; but in cities having a population of not less than 100,000, retail coal or fuel oil dealers shall be assessed for a sum equal to 30 per cent of the assessed value."

5. The non-manufacturing members of the Canadian Textbook Publishers' Institute respectfully point out the inequities in their assessment situation under Section 9 (f) with particular reference to other sections of the Act.

(a) The wording which reads: "... lithographer, printer or publisher ..." groups the non-manufacturing publishers with businesses whose operation entails the manufacture of printed material. It is respectfully pointed out that this grouping probably was originally devised years ago when virtually all publishers were printers.

- (b) Section 9 (h) which applies to radio or television stations and newspapers specifies a lower percentage rate than that applied to non-manufacturing book publishers:

"Every person carrying on the business of operating a radio or television broadcasting station or carrying on business as the publisher of a newspaper in a city, for a sum equal to 35 per cent and in any other municipality for a sum equal to 25 per cent of the assessed value."

It is inequitable that other fields of communication should be given a preferred rate over non-manufacturing book publishers. This inequity is especially apparent in comparing the non-manufacturing book publishers with newspapers where in many cases the actual manufacture of the product is done on the premises.

- (c) At a time when every effort is being made to hold the line on school book prices, consistent with the highest standards, it does not appear reasonable that the cost of books, especially school books, should be affected by an inequitably high percentage rate of the assessed value.

RECOMMENDATIONS OF
THE CANADIAN TEXTBOOK PUBLISHERS' INSTITUTE

in respect to

The Revised Statutes of Ontario, 1960, Chapter 23

"The Assessment Act"

- A. The Canadian Textbook Publishers' Institute recommends that the non-manufacturing book publishers as defined in Item 2 of this Brief be assessed for a business assessment on the basis of 35% of the assessed value of the land so occupied or used by them.

- B. The Canadian Textbook Publishers' Institute further recommends that Recommendation A be put into effect by defining the non-manufacturing book publishers as a new category and including them as a category under Section 9 (h) of the said Act.

The Canadian Textbook Publishers' Institute respectfully submits this Brief for the consideration of the Select Committee on the Municipal Act and Related Acts and requests permission to have its representatives appear before the Select Committee to Support this Brief.

S. Gordon Scott

Bernard McEvoy

THE CANADIAN TEXTBOOK PUBLISHERS' INSTITUTE
60 St. Clair Avenue West, Suite #5,
Toronto, Ontario. Walnut 4-1416



Canadian Wholesale Council

PHONE WALNUT 4-9659

SUITE 717, 31 ALEXANDER STREET

TORONTO 5, ONT.

Mr. Hollis E. Beckett, Q.C., M.L.A., June 23, 1961.
Chairman,
Select Committee on the Municipal Act
and Related Acts,
Room 377,
Parliament Buildings,
Toronto 5, Ont.

Dear Mr. Beckett:

The business tax, as introduced in 1904 in Ontario, has had few amendments, despite the fact that there has been considerable study of the Act by businessmen, economists, and government, during the intervening years.

It has been stated by Cabinet Ministers, Deputy Ministers of Municipal Affairs, and senior Municipal Taxation Officers, that the Act is in need of revision, and in no instance is this more noticeable than in Clause 8, which sets out the general rates at which assessments shall be levied by the municipality for the purpose of collection of business tax.

A casual reading of this section reveals numerous anomalies, an example of which might be cited as that which calls for a business assessment on premises occupied by cocktail lounges and other dispensers of liquor at the retail level of 25%, whereas distillers are assessed at 150%.

It has long been the contention of the wholesale trade that discrimination exists against the wholesaler who pays on the basis of 75%, whereas the department store which buys as a wholesaler and sells as a retailer is assessed at 50%. The manufacturer who sells direct to the retail trade, in wholesale quantities, is assessed at 60%, and the retailer pays on a basis of 25% in the larger cities, 30% and 35% in smaller municipalities.

1. The first part of the report is a general introduction to the subject of the study.

2. The second part of the report is a detailed description of the methods used in the study.

3. The third part of the report is a discussion of the results of the study.

4. The fourth part of the report is a conclusion and a list of references.

5. The fifth part of the report is a list of appendices.

6. The sixth part of the report is a list of figures and tables.

7. The seventh part of the report is a list of footnotes.

8. The eighth part of the report is a list of references.

9. The ninth part of the report is a list of appendices.

10. The tenth part of the report is a list of figures and tables.

11. The eleventh part of the report is a list of footnotes.

12. The twelfth part of the report is a list of references.

13. The thirteenth part of the report is a list of appendices.

14. The fourteenth part of the report is a list of figures and tables.

15. The fifteenth part of the report is a list of footnotes.

16. The sixteenth part of the report is a list of references.

17. The seventeenth part of the report is a list of appendices.

18. The eighteenth part of the report is a list of figures and tables.

19. The nineteenth part of the report is a list of footnotes.

20. The twentieth part of the report is a list of references.

Ontario is the only province in Canada which discriminates against the wholesaler to the extent of 300% of the retail assessment. Where the assessment varies according to classes of occupancy, the greatest differential between retailer and wholesaler in any other province is 150%, with many of them lower than this figure.

Presumably, at the time this basis was established, it was felt the wholesaler was in a better position to pay tax than any other class of merchants. The years have brought tremendous changes. The wholesaler no longer occupies a pre-eminent position in the business community. There is no wholesaler in the province with as large a sales volume as that enjoyed by certain chain and department stores, all of whom are in the retail field. The volume of sales of many manufacturers who sell direct to the retailer is far greater than that of wholesalers.

We submit, therefore, the present basis is unrealistic and does not take cognizance of the fact that the wholesaler today is in a vastly different position than he was 57 years ago.

The average net profit to sales and the net profit to tangible net worth for wholesalers is lower than that of both manufacturers and department stores. If "ability to pay" is accepted as the basis for the tax levy, then wholesalers should be enjoying a rate substantially lower than either manufacturers or department stores. Figures to support this contention can easily be produced, and have in fact been furnished in connection with briefs made on former occasions.

The wholesale trade has suffered under this unjustifiable situation for many years and has protested against it repeatedly. The provincial government has studied the matter on several occasions and has gone so far as to bring down a bill to amend the Act, but has in each case withdrawn in the face of strong protests of one type or another.

It seems to us impossible to classify businesses correctly under the various headings now set forth. For example, there are wholesalers who sell only manufacturers' products to retailers, and those who have manufacturing operations not clearly divided from their wholesale businesses, but who sell as manufacturers directly to retailers.



There are brokers, such as grocery brokers, who carry substantial stocks of merchandise in storage warehouses outside of their own premises. They pay a business tax based only on their office premises. These brokers sell merchandise from their storage stocks to large retailers in competition with wholesale grocers who are subject to a 75% business tax.

Increasingly, manufacturers are selling direct to retail outlets. Thus a manufacturer, say, of canned fruits and vegetables, is subject to a 60% business tax, yet he is selling in competition with a wholesaler who is subject to a 75% business tax.

During the past two decades, several presentations have been made to committees appointed for the purpose of considering amendments to the Assessment Act. The most recent presentation was made to a special committee, chaired by Mr. A. H. Cowling, M. L. A., which was known as the Municipal Advisory Committee of the Department of Municipal Affairs.

Presumably the information we gave this Committee is available to you gentlemen who form the present committee. We felt we were sympathetically received by Mr. Cowling's Committee and were very hopeful at the time that remedial action would be taken.

As we said to Mr. Cowling's Committee, we feel that the reason no action was taken on previous occasions to remedy this injustice was that it involves some loss of revenue on the part of some municipalities, and on those occasions no other source of revenue was apparent to replace such losses. We feel the situation is now quite different.

The Provincial Government is increasingly aiding municipalities in relieving them of some of their tax burdens. The situation is, and has been, during the last two or three years in particular, we think, somewhat in a state of flux. Therefore, we think that now is a most opportune time to remedy an injustice from which we have suffered for many long years.

We, therefore, request that relief be given to the wholesalers to the extent of reducing the present 75% basis to a figure not greater than 50%. Actually we feel this is a modest request for a strong case could be made

for a still lower basis.

Since this is now before a Committee of the Members of the Legislature, we are very hopeful that action will be taken at the next session of the House.

If there is any further information that the Committee desires on any aspect of the situation as it affects wholesalers, we would be very happy indeed to supply the necessary data at any time.

Yours very truly,

Jos.T.Crowder
Sec.-Mgr.

C I T Y E N G I N E E R ' S A S S O C I A T I O N

The Proposed Revision of

THE LOCAL IMPROVEMENT ACT

1. In this Act,

Inter-
preta-
tion.

- (a) "Board" means Ontario Municipal Board;
- (b) "boulevard" means that part of a street or highway not occupied by pavement, curb or sidewalk;
- (c) "bridge" includes a viaduct, a culvert, a subway, and an embankment, a pavement and a sidewalk on a bridge;
- (d) "clerk" means the clerk of the municipality and includes any officer or person authorized or required by the council to perform any duty which under this Act is to be or may be performed by the clerk;
- (e) "constructing" and "construction" include reconstructing and reconstruction, wholly or in part, when the lifetime of the work has expired;
- (f) "corporation" means the corporation of a local municipality;
- (g) "corporation's portion of the cost" means that proportion of the cost of a work which is not to be specially assessed, but is payable by the corporation;
- (h) "council" means the council of the corporation of a municipality;
- (i) "curbing" includes a curbing of any material in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk, or with or without a projection for the purpose of a gutter;
- (j) "engineer" shall mean a Professional Engineer authorized to practice in the Province of Ontario, appointed by the council for the purpose of this Act;
- (k) "frontage", when used in reference to a lot abutting directly on a work, means that side or limit of the lot which abuts directly on the work;
- (l) "judge of the county court" means the judge or a junior judge of a county or district court;
- (m) "lane or alley" means a registered, dedicated, or assumed secondary means of access to a majority of the lands abutting thereon;
- (n) "lifetime", as applied or applicable to a work, means the lifetime of the work as estimated by the engineer, or in case of an appeal as finally determined by the court of revision or the judge, as the case may be;
- (o) "lot" means a subdivision or a parcel of land which by The Assessment Act is required to be separately assessed, and "lots" means more than one lot as so defined;
- (p) "municipality" includes a union of townships, a municipality composed of more than one township, a township, a city, a town and a village, but not a county;

- (q) "owner" and "owners" mean respectively the person or persons appearing by the last revised assessment roll of the municipality to be the owner or owners of land.
- (r) "owners' portion of the cost" means that part or portion of the cost of a work which is to be specially assessed upon the land abutting directly on the work or upon land immediately benefited by the work;
- (s) "pavement" includes any description of pavement or roadway;
- (t) "published" means published in a newspaper in the municipality, or if there is no newspaper published in the municipality, in a newspaper published in an adjacent or neighbouring municipality; and "publication" has a corresponding meaning;
- (u) "to repair and to maintain" means to keep the work in a sufficient state of repair that it adequately provides the use for which such works are customarily constructed.
- (v) "sewer" includes a common sewer and a drain and two or more sewers connected as a system of sewers; and without limiting the generality of the foregoing shall include sanitary sewer, combined sewer, storm sewer, interceptor sewer, collector sewer and outlet sewer.
- (w) "sidewalk" includes a footway and a street crossing;
- (x) "specially assessed" means specially rated for or charged with part of the cost of a work;
- (y) "street" means a street allowance, registered or dedicated, and shall include a park, a square, a public drive and a public place, or a part of any of them;
- (z) "value" means assessed value, exclusive of buildings, according to the last revised assessment roll of the municipality;
- (za) "watermain" means one or more watermains connected in a system of waterworks, hydrants, valves, and appurtenances;
- (zb) "work" means a work or service which may be undertaken as a local improvement;
- (zc) "work undertaken" means a work which is undertaken as a local improvement

ADOPTION OF LOCAL IMPROVEMENT SYSTEM

- | | |
|---|--|
| Adoption 2.
of local
improve-
ment
system. | (1) The council of a corporation by by-law passed, in accordance with The Municipal Act, may provide that all works which may be undertaken as local improvements, or any one or more classes or descriptions of such works thereafter, or after a day named in the by-law, shall be undertaken as local improvements and not otherwise. |
| Repeal of
by-law | (2) The bylaw may be repealed or amended with the assent of the Board. |
| If Local
Improve-
ment
Policy
already
established. | (3) Notwithstanding subsection 1 in the case of a municipality that has an established practice of Local Improvement construction prior to the passing of the Local Improvement Act ---- the assent of the electors shall not be deemed necessary. |

IMPROVEMENTS

Works which may be effected as local improvements.

3. (1) A work of any one or more of the characters or descriptions hereinafter mentioned may be undertaken by the council of a corporation with respect to one or more streets as one local improvement:
- (a) opening, widening, extending, grading, altering the grade of, diverting or improving one or more streets, lanes or alleys;
 - (b) opening or establishing a new street or streets;
 - (c) constructing a bridge as part of a street or streets;
 - (d) constructing, enlarging or extending a sewer, including a sewer on each side or on one side only of a street or streets;
 - (e) constructing, enlarging or extending a watermain, including a main on each side or on one side only of a street or streets;
 - (f) paving one or more streets, lanes or alleys including necessary ancilliary works;
 - (g) constructing a curbing, a gutter, or a sidewalk, or a combination thereof in upon, or along a street or streets, including necessary ancilliary works;
 - (h) constructing or maintaining a boulevard where a part of a street or streets has been set apart for the purpose of a boulevard;
 - (i) sodding and seeding any part of and planting, maintaining and caring for trees, shrubs and plants upon and in a street or streets;
 - (j) the extension of a system of water, gas, light, heat or power works owned by the corporation, including all such works as may be necessary for supplying water, gas, light, including street lighting, heat or power, to the owners of land, for whose benefit the extension is provided;
 - (k) in a township where works have been constructed and erected for the supply of electrical power to owners, for constructing and erecting in connection with such works such further works, plant, appliances and equipment as may be necessary for street lighting;
 - (l) acquiring, establishing, laying out and improving a park or square not having a greater area than two acres, or a public drive;
 - (m) constructing retaining walls, dykes, breakwaters, groynes, cribs and other shore protection works along the banks of rivers, streams or creeks or along the shores of lakes;
 - (n) in the case of cities and towns and villages only, constructing and erecting on petition only, on any street or part of a street, equipment, plant and works for the purpose of supplying electric light or power, including standards and underground conduits and wires, to the extent to which the cost of the same exceeds the cost of the equipment, plant and works which would otherwise be provided at the expense of the corporation at large;



- (o) constructing a subway under a railway;
- (p) subject to section 24 for re-surfacing with asphalt or other suitable material, a pavement having a foundation which in the opinion of the engineer is sufficient therefor, whether or not the lifetime of the pavement has expired, and when any work undertaken under this clause is such as might entitle it to a provincial grant, the approval of the Department of Highways shall be first had and obtained with respect to the suitability of the foundation;
- (q) widening a pavement on a street or streets;
- (r) private drain connections, water service pipes, and gas service pipes;
- (s) constructing a retaining wall, with or without a sidewalk or pavement on a street.

(2) Nothing in this section shall extend or apply to a work of ordinary repair or maintenance.

Works which may be undertaken in connection with a pavement, watermain or sewer.

4. (1) Where the work is the construction of a pavement or watermain, the council, before proceeding with the work, may construct all works necessary for surface drainage in connection therewith and may make all necessary private drain connections from the main sewer to the street line on either or both sides, and may also lay all necessary water service pipes and stop cocks and make all necessary alterations in the same, and where gas works are owned by the corporation the council may lay all necessary gas mains, service pipes and stop cocks and make all necessary alterations in the same, and where the work is the construction of a sewer the council may make all necessary private branch drains and connections to the street line on either or both sides; but the cost of a water or gas service pipe or stop cock and any alteration of the same and the cost of a private branch drain and connection shall be specially assessed only upon the particular lot to serve which it was constructed.

Construction of approach to lot

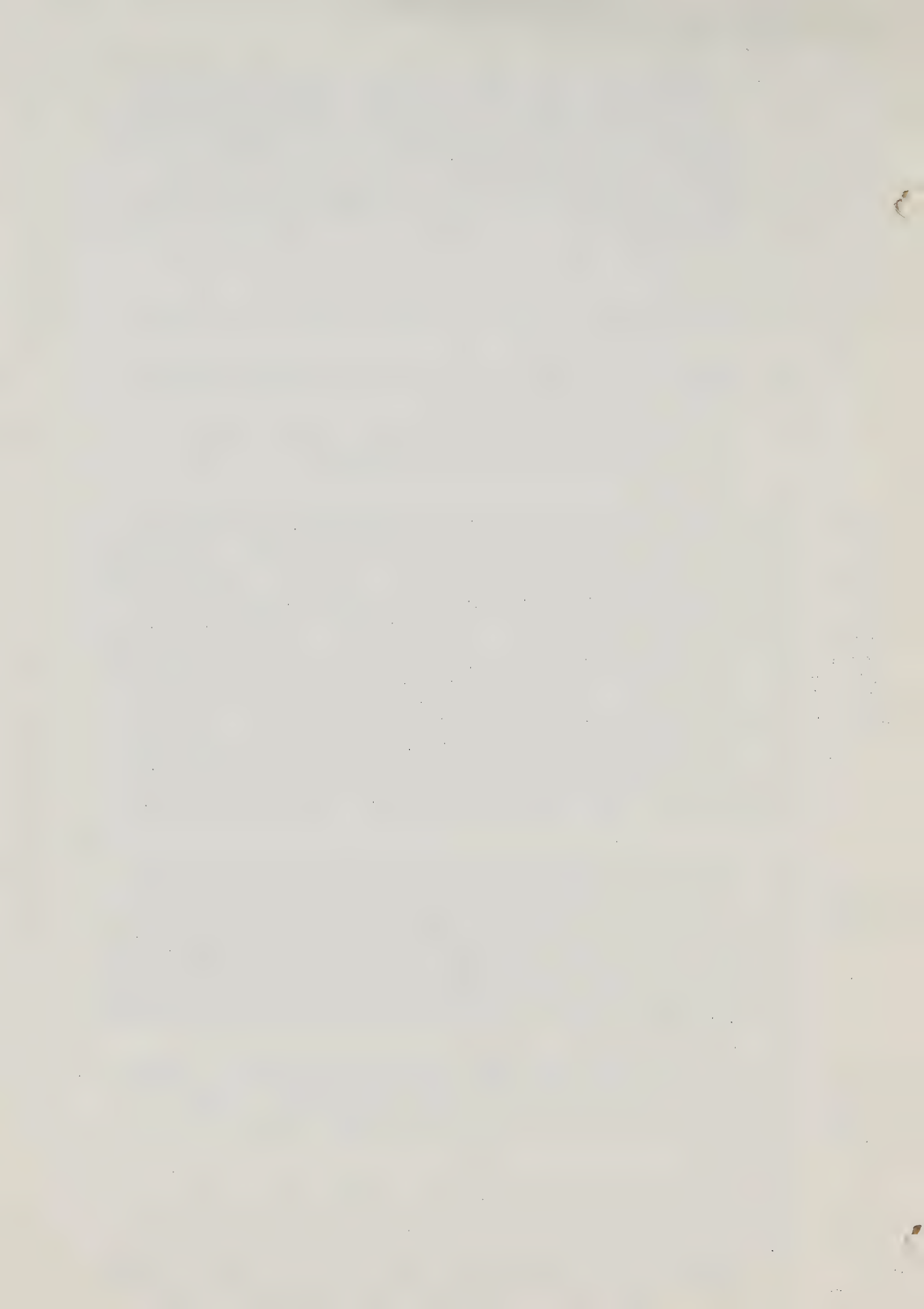
(2) Where the work is the construction of a pavement, the council may from time to time during the progress of the work, upon the written request of the owner of the lot to be served, provide for the construction, as part of the pavement, of an approach of such width and character as the council may determine from the boundary line of the pavement to the street line, so as to form an approach to a particular lot, and the cost of such approach shall be specially assessed upon the particular lot so served.

To be part of work of construction.

(3) The works mentioned in subsection 1 shall be deemed part of the work of construction of the pavement, sewer or watermain in all respects except as to the manner in which the cost of them is to be specially assessed as provided by that subsection.

Construction of private drain connections without petition.

5. Where a sidewalk, sewer, water main or gas main has been or is hereafter constructed, the council, by a vote of two-thirds of all the members thereof at any general or special meeting, may undertake the construction of private drain connections, water service pipes or gas service pipes from the sewer, water main or gas main to the street line on either or both sides as a local improvement without any petition therefor, and the cost of each private drain connection, water service pipe or gas service pipe shall be specially assessed upon the particular lot for or in connection with which it is constructed, and the owner of the land shall not have the right of petition provided for by section 8, and the provisions of section 19 shall apply.



PROCEDURE FOR UNDERTAKING WORK

5.

Methods
of under-
taking
works

6. (1) A by-law may be passed for undertaking a work as a local improvement;
- (a) on petition;
- (b) without petition, on the initiative of the council, hereinafter called the initiative plan, except in the case of a park or square or public drive mentioned in clause (1) of subsection 1 of section 3;
- (c) on sanitary grounds, as mentioned in section 9, or
- (d) without petition in the case mentioned in sections 5 and 10.

One by-
law may
include
several
works
When work
may be
completed

- (2) Instead of passing separate by-laws for each work, the council may pass one by-law in respect of several works.
- (3) Proceedings for undertaking a work begun by one council may be continued, and the work may be begun, continued and completed by a succeeding council.

Number
of sig-
natures
to peti-
tion
required.

7. (1) The petition for a work shall be signed by at least two-thirds in number of the owners representing at least one-half of the value of the lots to a uniform depth, liable to be specially assessed, provided that where a petition proposes that any lot be totally exempted from special assessment under section 29 such lot and the owner thereof shall be excluded from computation in ascertaining whether the petition is sufficiently signed.

Lot of
petition-
er to be
described

- (2) There shall be set out opposite to every signature to the petition for or against a work a description of the lot of which the petitioner is the owner by its number or such other description as will enable the clerk to identify it.

Clerk to
determine
suffici-
ency of
petition

- (3) The sufficiency of a petition for or against a work shall be determined by the clerk, and his determination shall be evidenced by his certificate and when so evidenced shall be final and conclusive.

What
owners
to be
counted

- (4) Where the sufficiency of a petition has been determined by the clerk it shall be deemed to have been and to be a sufficient petition notwithstanding that changes may be made by the court of revision or by the judge in the lots to be specially assessed which have the effect of increasing or reducing the number of the lots.

Deter-
mining
value
of lots

- (5) When it is necessary to determine the value of any lot and the value cannot be ascertained from the proper assessment roll by reason of the lot not having been separately assessed, or for any other reason, the clerk shall fix and determine the value of the lot and the value thereof as so fixed and determined shall be deemed for the purpose of this Act to be the assessed value thereof, and his determination shall be final and conclusive.

Owner
whose
name is
not on
roll may
petition

- (6) Where a person who is, but does not appear by the last revised assessment roll of the municipality to be, the owner of land is petitioner, he shall be deemed an owner if his ownership is proved to the satisfaction of the clerk, and if the person who appears by the assessment roll to be the owner is a petitioner his name shall be disregarded in determining the sufficiency of the petition.

Case of
joint
owners

- (7) Where two or more persons are jointly assessed for a lot, in determining the sufficiency of a petition,

7. (7)

- (a) they shall be reckoned as one owner only;
- (b) they shall not be entitled to petition unless a majority of them concur and the signatures of any of them, unless the petition is signed by the majority, shall be disregarded in determining the sufficiency of the petition.

Witness- (8) The clerk, for the purpose of any inquiry pending
es before him under this section may cause witnesses to be summoned and to be examined upon oath, and any person interested in the inquiry may, for the purpose of procuring the attendance of a witness, cause a subpoena to be issued out of the county court of the county in which the municipality lies.

Witness (9) A witness, if a resident of the municipality, shall
fees be bound to attend without payment of any fees or conduct money, and if not a resident of the municipality shall be entitled to fees and conduct money according to the county court scale.

Compl- (10) Where any person complains to the clerk that his
aints signature to the petition was obtained by fraud, misrepresentation to be or duress the complaint shall be investigated and determined by investi- a judge of the county court, and the clerk shall delay certifying gated until he has received the finding or report of the judge upon the by coun- complaint, and in determining as to the sufficiency of the ty judge petition the clerk shall give effect to such finding or report.

Petitions (11) A petition for or against the undertaking of a work
to be shall be lodged with the clerk, and shall be deemed to be lodged presented to the council when it is so lodged.
with

clerk (12) No person shall have the right to withdraw his name
Withdraw- from, and no name shall be added to, a petition after the clerk al of has certified as to its sufficiency.
name from

petition 8. (1) Where the council proceeds on the initiative plan,
Notice notice of the intention of the council to undertake the work
of in- (Form 3) shall be given by publication of the notice and by
tention service of it upon the owners of the lots liable to be specially assessed, and unless within one month after the first publication under of the notice a majority of the owners, representing at least one-half of the value of the lots which are liable to be specially assessed, petition the council not to proceed with it the work plan may be undertaken as a local improvement.

contents (2) The notice shall be sufficient if it designates by a
of general description the work to be undertaken and the street
notice or place whereon or wherein, and the points between which the work is to be done, and the number of the instalments by which the special assessment is to be payable.

May cover (3) The notice may relate to and include any number of
differ- different works.
ent works

Manner of (4) The notice may be served upon the owner,
service (a) personally; or

(b) by leaving it at his place of business or residence if within the municipality, or

(c) by mailing it at a post office addressed to the owner at his actual place of business or of residence, if known, or at his place of business or residence as set forth in the last revised assessment roll of the municipality; or

- (d) if the place of business and of residence of the owner are not known, by leaving the notice with a grown-up person on the lot of the owner which is liable to be specially assessed, if there is a grown-up person residing thereon.

Where residence,
etc.,
unknown

- (5) If the place of business and of residence of the owner are unknown, and there is no grown-up person residing on the lot of the owner which is liable to be specially assessed service upon the owner shall not be requisite.

Proof of publication
and service

- (6) Publication and service of the notice may be proved by affidavit or statutory declaration, which before the passing of the by-law by which the special assessment is made to defray the cost of the work, shall be prima facie evidence, and after the passing of the by-law shall be conclusive evidence of the matters set forth therein.

Effect of petition
against work

- (7) Where the council has proceeded on the initiative plan and has been prevented from undertaking a work by reason of a petition having been presented under section 8, the council shall not proceed on the initiative plan with regard to the same work for a period of two years after the presentation of the petition provided that in a municipality in which a by-law passed under section 2 is in force the prohibition contained in this section shall not prevent the council from again proceeding on the initiative plan with regard to such work if it is of a different kind or description from or less expensive than that originally proposed to be undertaken.

Powers conferred
by section 10 not
affected

- (8) Nothing in this section shall prevent the council from exercising the power conferred by section 10.

Construction of
sewer on recommendation
of health authority

9. (1) Where the council, upon the recommendation of the Minister of Health, or of the local board of health of the municipality, determines and, by by-law passed at a regular or special meeting of the council by vote of two-thirds of all the members thereof, declares that the construction, enlargement or extension of a sewer or water main or of private drain connections or water service pipes under section 5 as a local improvement is necessary or desirable in the public interest on sanitary grounds, the council may undertake the work without petition, and the owners of the land shall not have the right of petition provided for by section 7.

Notice of intention

- (2) Where it is intended to proceed under subsection (1) the council shall not be deemed to proceed on the initiative plan, but, before passing the by-law for undertaking the work, shall cause notice of its intention (Form 1) to be published, and such notice may relate to and include any number of different works.

Objection to construction

- (3) Where the council proceeds with any local improvement under subsection (2), a majority of the owners representing at least one-half of the value of the lots which are to be specially assessed therefor, being dissatisfied with the local improvement or with the manner in which it has been undertaken, may apply by petition to the Board for relief, and the Board may thereupon investigate the complaint and make such order with respect to the local improvement as may seem proper, and after notice to the clerk of the municipality of the application and pending its determination by the Board, the council shall not proceed with the local improvement work.

Sufficiency of petition

- (4) The sufficiency of the petition shall be determined in the manner provided by section 7.

Filing of petition

- (5) The petition shall be deposited with the secretary of the Board within twenty-one days after the publication of notice of the council's intention to undertake the work.

Time for
passing
by-law

9. (6) The by-law for undertaking the work shall not be passed until the expiry of the said twenty-one days.

Local
improve-
ments
with
approval
of Board

10. (1) Where the council determines and by by-law or resolution passed at any meeting by a vote of two-thirds of all the members thereof declares it is desirable that the construction of a curbing, pavement, sidewalk, sewer, water main or bridge, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street, or the widening of a pavement, or the extension of a system of water works, or of private drain connections or water service pipes under section 4, should be undertaken as a local improvement, the council may with the approval of the Board pass a by-law to undertake the work.

Petition
not re-
quisite

(2) Where undertaking of the work is approved by the Board no petition required by section 6 shall be necessary and the owners shall not have the right of petition provided by section 8

Notice of
applica-
tion to
Board

(3) Where it is intended to proceed under this section the council shall not be deemed to proceed on the initiative plan but there shall be published at least once a week for two weeks a notice of intention (Form 2) to apply to the Board for approval of the work being undertaken and in addition the council may direct the clerk to forward a copy of said notice by regular mail to all owners liable for the special assessment therefor, and any owner may, within twenty-one days after the first publication of such notice file with the Board his objection to the work being undertaken.

Further
notices

(4) The Board may direct such further or other notice or notices (Form 2) or otherwise, to be given by the council, and the Board may make such order with respect to the work, as may seem proper.

Work not
to proceed
until
approval
given
What notice
may include

(5) The work shall not be undertaken until the approval of the Board to the passing of the by-law therefor has been obtained.

(6) The notice (Form 2) when published may relate to and include any number of different works.

Power to
undertake
part of
work only

11. Where a by-law has been heretofore or is hereafter passed for undertaking any work as a local improvement and the council deems it inadvisable or impracticable to complete the work, the council may, by by-law, amend such by-law and provide for the carrying out of part only of the work mentioned therein or for the substitution in whole or in part of another kind or character of work of the same class as that undertaken in such by-law but all the provisions of this Act shall apply to such partial work as if it had been originally undertaken as one entire work or to such substituted work as if it had been the work originally undertaken, but the amending by-law shall take effect only on being approved by the Board.

Amend-
ments to
by-laws
respect-
ing high-
ways

12. After passing a by-law for establishing, extending, widening or diverting a highway, and before completion of the work, the council may apply to the Board for leave to pass an amending by-law providing for a deviation in the course or location of the highway as defined in the original by-law and the Board may make an order approving of and validating an amending by-law accordingly on such terms and conditions and after such hearing as it may consider proper, and subject to the terms of the order the provisions of this Act shall apply to such altered work as if it had been provided for in the original by-law.

Renewal
or replace-
ment of
local im-
provement
works

13. Notwithstanding Section 2 Subsection 1, the council of a corporation may by by-law provide for the renewal or replacement of any local improvement work at the expense of the Corporation, or partly at the expense of the Corporation and partly as a local improvement, or wholly as a local improvement, subject to the provisions of Section 24.



"ENGINEERS' REPORT"

Where
all of
owners'
portion
assessed
on abut-
ing land

14. (1) Where the owners' portion of the cost is to be specially assessed upon the lots abutting directly on the work by an equal special rate per foot frontage, before passing the by-law for undertaking it, the council shall cause to be made,

- (a) a report as to the lifetime of the work;
- (b) a report as to the reductions, if any, which ought to be made under section 27 in respect of any lot and the aggregate amount of such reductions;
- (c) an estimate of the cost of the work;
- (d) a statement of the share or proportion of the cost which should be borne by the land abutting directly on the work and by the corporation respectively;
- (e) a report as to the number of instalments by which the special assessment should be made payable.

Non-
abutting
land

(2) In the case of a work part of the owners' portion of the cost of which may be specially assessed on land not abutting directly on the work, before passing the by-law for undertaking the work, in addition to procuring the reports and estimate mentioned in subsection 1, the council shall cause a further report to be made, stating,

- (a) whether it would be inequitable to charge the whole of the owners' portion of the cost on the land abutting directly on the work; and
- (b) if inequitable to do so, what portion of the cost should be borne by the corporation, what portion thereof should be specially assessed upon the land abutting directly on the work will be immediately benefited and should be specially assessed for any part of the cost and the portion of the cost which should be specially assessed upon it.

COST OF WORK

Items
which
may be
included
in cost

15. (1) The following may be included in the cost of the work:

- (a) engineering expenses;
- (b) cost of advertising and service of notices;
- (c) interest on temporary loans;
- (d) compensation for lands taken for the purposes of the work or injuriously affected by it and the expenses incurred by the corporation in connection with determining such compensation;
- (e) the estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them;
- (f) the estimated cost of unfinished work and unsettled claims as defined in Section 18 subsection 1.

Deduction
of contri-
butions
from cost

16. (1) Where a municipality receives a contribution in cash to be applied towards the cost of any work, the amount of the contribution shall be deducted from the total cost of the work and the balance shall for all purposes be deemed the actual cost of the work, unless otherwise provided by an agreement between the Corporation and the Contributor.

Contribution by way of annuity, how treated

16. (2) If the contribution is by way of an annuity, it shall be capitalized and the capitalized value shall be deducted as aforesaid but the municipality shall nevertheless borrow the full amount of the cost of the work and shall specially assess against the owners of lots their share of the cost ascertained after making the deduction as aforesaid, and the balance of the total cost shall be the corporation's portion of the cost, and the annuity shall be applied in reduction of the annual rate levied to meet the corporation's portion of the cost.

(3) Notwithstanding subsections 1 and 2, where a contribution is to be applied towards any excess cost of a work caused by reason of the work being constructed with a greater capacity than is required for the purposes of the lots abutting on the work, the amount of the contribution shall be applied to reduce the corporation's portion of the cost.

Where a guarantee of work is required

17. (1) Where a contractor is employed to construct a pavement or sidewalk, and the council has required him to guarantee that he will so construct it that it shall, for a period not exceeding ten years, remain in good condition and suitable for safe and comfortable travel, and that he will, when required, make good any imperfections therein due to materials, workmanship or construction, in ascertaining the cost of the work no deduction shall be made from the sum paid to the contractor by reason of such guarantee having been required.

Assessment of allowance to make good imperfections

(2) In all municipalities where such guarantee is required where any local improvement is undertaken by the corporation and constructed by day labour, the corporation may assess as part of the cost thereof a reasonable allowance to make good any imperfection therein due to materials, workmanship or construction during the lifetime thereof as fixed by the court of revision, the amount of such allowance to be subject to revision by the court of revision.

estimate of cost of unfinished work and unsettled claims

18. (1) In ascertaining the actual cost of the work under section 41 where, in the opinion of the engineer and treasurer, the cost of any unfinished portion of the work and any unsettled claims for lands taken for or injuriously affected by the work will not exceed in amount 25 per cent of the total estimated cost of the work, the engineer and treasurer may estimate the cost of such unfinished work, and the amount of all such claims, and the amount may be included in the actual cost to be ascertained and certified under section 41, and shall be deemed to be the correct amount thereof subject to any order made with reference thereto by the court of revision.

Where estimate deficient

(2) If the cost of such unfinished work and unsettled claims exceeds the amount so estimated by the engineer and treasurer, the excess over the estimated amount shall be borne by the corporation.

Where estimate excessive

(3) If the cost of such unfinished work and unsettled claims is less than the estimated cost, the balance remaining in the hands of the municipality shall be applied pro tanto to payment of the rates to be levied under the by-law.

19. (1) The amount to be assessed against each lot in respect of a private drain connection, water service pipe, or gas service pipe shall be the cost thereof from the centre of the street to the street line, whether or not the sewer, or water, or gas main is laid in the centre of the street, but this subsection shall not apply to private drain connections where a sewer is constructed on each side of a street.

When sewerage works deemed to be completed 20. Where the council has undertaken the construction of several sewers connected as a system of sewers, no sewer in the system shall for the purposes of subsections 1 and 2, Sec 48 be deemed to be completed until all the sewers in the system are completed, and there shall be added to the cost of each sewer forming part of the system its proportionate share of the whole of the interest upon the temporary loans made by the corporation pending the construction of all the sewers forming the system as if all the sewers had been constructed at the same time.

HOW COST OF WORK TO BE BORNE

Frontage rate 21. Except as otherwise expressly provided in this Act or in the authorizing By-law, the entire cost of a work undertaken shall be specially assessed upon the lots abutting directly on the work, according to the extent of their respective frontages thereon, by an equal special rate per foot of such frontage sufficient to defray such cost.

Corporation's portion of cost 22. There shall be included in the corporation's portion of the cost,

- (a) that portion of the cost of the work directed by by-law passed under Section 31, Section 62, Section 25 and Section 26;
- (b) the entire cost of all hydrants constructed in connection with a water main and the entire cost of all culverts, catch-basins and other works which are provided for surface drainage and which are incidental to the construction of the sewer or pavement; and
- (c) such proportion of the cost of a work as is incurred at street intersections.

Apportionment of cost of sewers 23. (1) Where the work is the construction of a sewer or water main the council may in the by-law for undertaking the work, passed by a vote of three-fourths of all the members, provide that a certain sum per foot frontage shall be specially assessed upon the land abutting directly on the work and that the remainder of the cost of such sewer or water main shall be borne by the corporation.

(2) The part of the cost to be borne by the corporation shall not be less than that which, under section 22 is to be included in the corporation's portion of the cost.

Assumption by corporation of special assessments in certain case 24. Where the work undertaken is the resurfacing of a pavement as provided by clause (p) of subsection 1 of section 3, the corporation shall assume and pay the special assessments therefor charged against the lots fronting or abutting on the work until the expiration of the period within which such lots are specially assessed for the then existing pavement.

Corporation may assume part of cost of sidewalk or pavement 25. (1) Subject to subsection 3, the council of the corporation of a municipality in which there is not in force a by-law passed under section 2 applicable to the work may, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council, provide that such part as to the council seems proper of the cost of every granolithic, stone, cement, asphalt or brick sidewalk, or of every pavement or curbing or of works, plant, appliances and equipment for street lighting constructed as a local improvement which otherwise would be chargeable upon the land abutting directly on the work, shall be paid by the corporation.

Repeal of by-law (2) Such by-law shall not be repealed except by vote of three-fourths of all the members of the council.

Assumption of larger share of certain named work 25. (3) The council by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council and approved of by the Board may provide that the corporation shall assume a larger share of the cost of a certain named work undertaken on a certain named street than is provided in the by-law passed under subsection 1, with reference to works of the same class or where no by-law has been passed under subsection 1 that the corporation shall assume a stated part of the owners' portion of the cost of any certain named work of any one of the classes set out in subsection 1.

Reduction of assessment of corner lots, etc. 26. (1) In the case of corner lots a reduction shall be made in the special assessment which otherwise would be chargeable thereon sufficient, having regard to the situation, value and superficial area of such lots as compared with the other lots, to adjust the assessment on a fair and equitable basis.

Of lots unfit for residential, commercial, or industrial purposes (2) Where the cost of making all or part of a lot suitable for residential, commercial, or industrial purposes is excessive, an equitable reduction shall be made in the assessable frontage thereof.

Of lots with two limits abutting on works (3) Subject to section 29, where a lot, other than a corner lot, has two limits that abut on works and the size or nature of the lot is such that any or all of the works are not required, a reduction in respect of the works that are not required, so long as they are not required, shall also be made in the special assessment that would otherwise be chargeable thereon, sufficient to adjust its assessment on a fair and equitable basis.

How reduction to be made (4) The reduction shall be made by deducting from the total frontage of the lot liable to the special assessment so much thereof as is sufficient to make the proper reduction but the whole of the lot shall be charged with the special assessment as so reduced.

Reduction to be borne by corporation (5) The amount of any reduction made in the assessment of any lot under the provisions of this section shall not be chargeable upon the lots liable to be specially assessed, but shall be paid by the Corporation.

(6) In the case of lots abutting on a curved street, a cul-de-sac, or other unusual street line arrangement, or of irregularly shaped lot where an assessment according to abutting frontage would not properly allocate the cost of the work which is chargeable to abutting property, such cost shall be allocated on a fair and equitable basis, over all property benefitted. In such cases, subsection (5) shall not apply.

Certain lands exempt from taxation liable to be specially assessed 27. Land on which a church or place of worship is erected or which is used in connection therewith, land owned by or forming part of a cemetery operated for profit, land in a local municipality owned by the corporation of a county, and the land of a university, college or seminary of learning, whether vested in a trustee or otherwise, except schools maintained in whole or in part by a legislative grant or a school tax, shall be liable to be specially assessed for local improvements notwithstanding the provisions of The Assessment Act.

Land exempt from taxation for local improvement to be specially assessed. 28. Land exempt from taxation for local improvements under any general or special Act shall nevertheless, for all purposes, except petitioning for or against undertaking a work, be subject to the provisions of this Act and shall be specially assessed; but the special assessments imposed thereon which fall due while such land remains exempt shall not be collectable from the owner thereof, but shall be paid by the corporation.

Assessment
for opening
lane

29. (1) Where the work is the opening, widening, draining extension, grading or paving of a lane, and the council is of opinion that any lot abutting on the work is not benefitted by the work, or is not benefitted thereby to the same extent as other abutting lots, the council may, in the by-law for undertaking the work, exempt such lot or make a reduction in the special assessment which would otherwise be chargeable thereon by deducting from the total frontage of the lot liable to special assessment so much thereof as is sufficient to make the proper reduction.

Assessment
of cost of
work in
such case

(2) Where such lot is exempted the amount of the special assessment which would otherwise be chargeable thereon shall be specially assessed against all the other abutting lots, and where a reduction is made the entire cost of the work shall be specially assessed as if it were the cost in respect to the reduced frontage but the whole of the lot granted the reduction shall be charged with the special assessment as so reduced.

Board's
approval

(3) None of the works mentioned in subsection 1 shall be proceeded with until the by-law for undertaking the work is approved by the Board.

Assessment
of cost of
certain
works

30. Subject to Section 33 subsection (2), where the work undertaken is a sidewalk or curbing or a sewer or water main constructed on one side of a street to serve only the lots on that side, only the land abutting on that side of the street upon which the work is constructed shall be specially assessed.

Apportion-
ment of
cost of
bridge, the
opening of
a street,
etc.

31. (1) Where the work is the acquisition, establishment, laying out and improving of a park or square or the construction of a bridge or retaining wall or the construction of a sewer or water main of a larger capacity than is required for the purpose of the abutting land, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street or the widening of a pavement on a street, or the construction of any work mentioned in clause (m) of subsection 1 of section 3, and the council is of opinion that for any reason it would be unequitable to charge the cost of the work on the land abutting directly thereon, the council may, in the by-law for undertaking the work passed by the vote of three-fourths of all the members, provide for the payment by the corporation of such part of the cost as to the council may seem just, and so much of the residue thereof as may seem just may be specially assessed upon the land abutting directly on the work, and so much of such residue as may seem just on such other land as is immediately benefitted by the work.

Method of
assessment

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed thereon in the manner provided by section 21 and that part of the cost for which land not abutting directly on the work is to be specially assessed shall be assessed thereon in the manner provided by sections 32 and 33.

Assessment
of non-
abutting
land equally
benefitted

32. Where land not abutting directly on a work is to be specially assessed, if the whole of it is equally benefitted, the portion of the cost to be borne by such land shall be specially assessed upon the lots according to the extent of their frontage by an equal special rate per foot of such frontage or in the case of unsubdivided lands, the assessment may be on an area or acreage basis.

Assessment
of non-
abutting
land un-
equally
benefitted

33. (1) Where land not abutting directly on a work is to be specially assessed and the whole of it is not equally benefitted, such land shall be divided into as many districts or sections as there are different proportions of benefit so that a district or section shall embrace all the land which will be benefitted in the same proportion, and its proper proportion of the cost shall be assigned to each district or section, and the portion shall be specially assessed on the area thereof on a fair and equitable basis.

(2) Where the work is the construction of a walk on one side only of a street, and where the by-law authorizing the work so stipulates, a portion not to exceed one-third of the cost may be assessed on the lots abutting on the other side of the street, and if a sidewalk is thereafter constructed on the other side of the street the owners portion of the cost shall be especially assessed in like manner. Such works may be initiated under Section 7, Section 8, or Section 10, providing that in the case of a petition under Section 7, the owners of the land on both sides of the street must be considered in ascertaining the petition's sufficiency.

Assessment
of right-
of-way of
railway,
etc.

34. Where the land abutting directly on any work undertaken as a local improvement is a right-of-way for a railway or for the transmission of electrical power, the council may exercise the powers conferred by subsection 1 of section 31 with respect to that part of the cost which would otherwise be specially assessed against such right-of-way.

Assessment
of cost of
outlet for
sewage

35. (1) Where the work is the construction of a sewer and it is necessary to construct an outlet for the sewage, and the lands fronting or abutting on or through which the outlet is constructed are not benefitted or served thereby, the cost of the outlet shall be deemed to be a part of the cost of the sewer and shall not be specially assessed against the lands fronting or abutting on the outlet or through which the outlet is constructed.

(2) Where the lands abutting directly on such outlets, at some later date, become benefitted or served thereby, and where part or all of the cost of such outlet has been paid for by the corporation, the council may, with the approval of the Board, pass a by-law, assessing such portion of the cost of the outlet as may be fair and equitable, against the abutting properties, as has been paid for by the corporation, but such cost shall be exclusive of interest charges, other than the interest on temporary loans made during the actual construction.

Assessment
of cost of
outlet or
pumping
works

36. Where the work is the construction of a sewer which is an outlet for sewage from lands not abutting directly upon the work or is the installation and construction of sewage pumping works, force mains, siphons and other pumping facilities necessary for a sewer or sewer system in carrying away sewage from lands not abutting directly upon the works, the council may, in the by-law for undertaking the work passed by a vote of three-fourths of all the members, provide for the payment by the corporation of such part of the cost of the work as to the council may seem just, and that the residue thereof shall be specially assessed on the lands not abutting on the work but immediately benefitted thereby in the manner provided by Sections 32 and 33.

Compensation by reducing assessment

37. (1) Where the work of acquiring, establishing, opening, widening, extending or diverting a street involves the taking of a portion of a lot abutting on the work, or of one or more of a number of lots or contiguous lots owned by the same person, the council may agree with the owner that in consideration of the dedication or gift of the land required to be taken or a release or reduction in the owner's claim for compensation, the remainder of his lot or his remaining lots as the case may be shall be charged with no part or a specified portion or proportion only of the special assessment which would otherwise be chargeable thereon in respect of the cost of the work, and the special assessment roll shall be prepared in conformity with such agreement notwithstanding anything to the contrary in this Act.

Appeal

(2) An appeal shall lie to the court of revision and to the county judge from the action of the council in like manner as an appeal lies under the provision of this Act with regard to the cost of a work undertaken.

Special assessment roll

38. Before a special assessment is imposed, the council shall cause a special assessment roll to be made, in which shall be entered,

- (a) every lot to be specially assessed in respect of the owners' portion of the cost, the name of the owner and the number of feet of its frontage to be so assessed;
- (b) every lot which, but for section 28, would be exempt from the special assessment and the number of feet of its frontage;
- (c) the rate per foot with which each lot is to be so assessed;
- (d) the number of instalments by which the special assessment is to be payable.

How reports statements, etc. to be made

39. The council may provide for the making of the reports, (except Engineers' reports), statements, estimates and special assessment roll mentioned in sections 14 and 38 in such a manner and by such officer of the corporation or person as the council may deem proper, and may do so by a general by-law applicable to all works or to any class or classes of them or by a by-law applicable to the particular work.

Case of widening pavement

40. Where the work is the widening of a pavement on a street, the lots on each side of the street shall be deemed to abut directly on the work.

"APPEALS"

Holding of court of revision

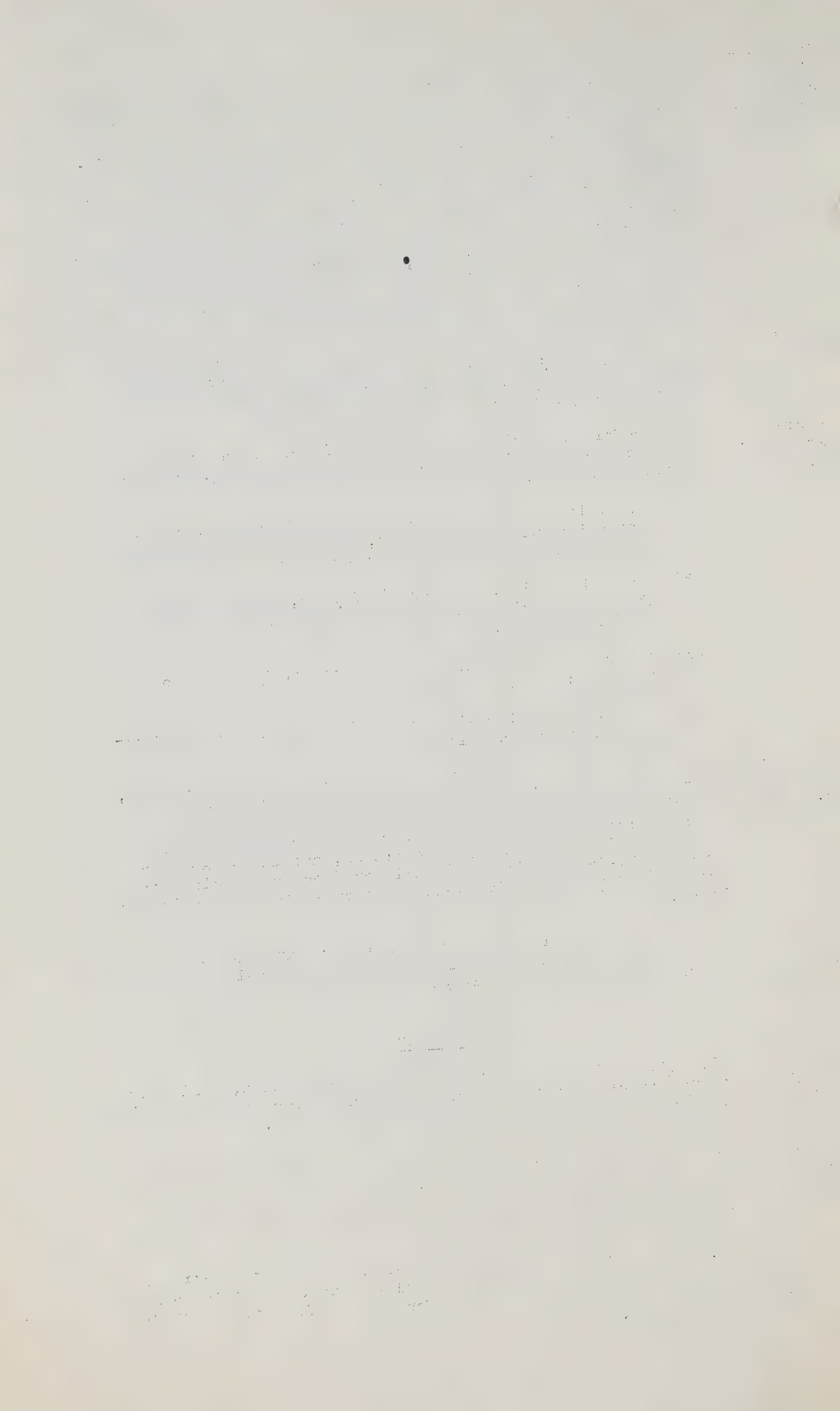
41. (1) Before a special assessment is imposed, a sitting of the court of revision for the hearing of complaints against the proposed special assessment shall be held.

Time and place of sittings

(2) Ten days notice of the time and place of the sitting shall be given by publication, and at least fifteen days before the day appointed for the sittings, a notice (Form 4) shall be mailed to the owner of every lot which is to be specially assessed.

Roll to be kept open for 10 days

42. The special assessment roll shall be kept open for inspection at the office of the clerk for at least ten days next before the day appointed for the sittings of the court of revision.



- Statement of cost of work for court of revision 43. A statement showing under appropriate heads the actual cost of the work, verified by the certificate of the clerk, assessment commissioner, treasurer or deputy or assistant treasurer of the municipality shall be delivered to the chairman of the court of revision before the meeting of the court.
- Powers of court 44. The court of revision shall have jurisdiction and power to review the proposed special assessment and to correct the same as to all or any of the following matters:
- (i) the names of the owners of the lots,
 - (ii) the frontage or other measurements of the lots,
 - (iii) the amount of the reduction to be made under section 26 in respect of any lot,
 - (iv) the lots which, but for section 28 would be exempt from special assessment,
 - (v) the lifetime of the work,
 - (vi) the rate per foot with which any lot is to be specially assessed, and
 - (vii) the exemption or amount of reduction to be made under section 29 in respect of any lot.
- Omission to assess certain lots 45. (1) Where it appears to the court of revision that any lot which has not been specially assessed should be specially assessed, before finally determining the matter, the court shall adjourn its sittings to a future day and shall cause notice (Form 4) to be given to the owner of the lot of the time and place when the adjourned sittings will be held.
- Time for mailing notices (2) The notice shall be mailed at least six days before the time fixed for the adjourned sittings.
- Power to fix special assessment of lots (3) If the court of revision determines that any such lot ought to be specially assessed, the court shall have jurisdiction and power to fix and determine the amount of the special assessment thereon.
- When special assessment roll to be final 46. The clerk shall make such corrections in the special assessment roll as are necessary to give effect to the decisions of the court of revision, and the roll when so corrected shall be certified by the clerk, and when so certified, except insofar as it may be further amended on appeal to the judge, the assessment roll and the special assessment shall be valid and binding upon all persons concerned and upon the land specially assessed, and the work in respect of which the special assessment roll has been made and certified shall be conclusively deemed to have been lawfully undertaken and proceeded with pursuant to and in accordance with this Act.
- Appeal to county judge 47. (1) The council or the owner of a lot specially assessed may appeal to the judge of the county court from any decision of the court of revision.
- Application of Rev. Stat. c. 24 (2) The provisions of The Assessment Act as to appeals to the judge shall apply to an appeal under subsection 1.
- Powers of Judge (3) The judge shall have the like jurisdiction and powers as are conferred on the court of revision by section 44, and the provisions of section 45 shall apply where it appears to the judge that any lot not specially assessed ought to be so assessed.

47. (4) A further appeal shall lie from the decision of the judge to the Board, or the Court of Appeal in the same manner as an appeal from a decision of a county judge under the Assessment Act, and the provisions of that Act with respect to an appeal from a county judge shall apply mutatis mutandis.

BORROWING POWERS

Temporary
loans

48. (1) The council may agree with any bank or person for temporary advances to meet the cost of the work pending the completion of it.

Issue of
debentures

(2) The council may, when the work undertaken is completed borrow on the credit of the corporation at large such sums as may be necessary to repay such advances and to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

Application
of Rev.Stat.,
c.243

(3) The provisions of The Municipal Act as to by-laws for creating debts shall apply to by-laws passed under subsection 2, except that it shall not be necessary,

- (a) that the by-law be submitted to or receive the assent of the electors;
- (b) that any rate be imposed for the payment of the principal of so much of the money borrowed as represents the owners' portion of the cost or of the interest thereon, other than the special rate per foot frontage imposed to meet it,

and except that the debentures, save as provided by section 52 shall be payable within the lifetime of the work.

Special fund
for payment
of debentures

(4) The special rates imposed for the owner's portion of the cost shall form a special fund for the payment of the debentures issued under subsection 2 and the interest thereon and shall not be applicable to or be applied for any other purpose.

General
rate to
meet
deficiency
in special
rate

(5) If in any year the amount realized from the special rate imposed to provide for the owners' portion of the cost and interest is insufficient to pay the amount falling due in such year in respect of so much of the debentures as represents the owners' portion of the cost, the council shall provide for the deficiency in the estimates for the following year and levy and collect the same by a general rate, but this shall not relieve the land specially assessed from the special rate thereon.

Owners' portion not to be deemed part of debenture debt of corporation

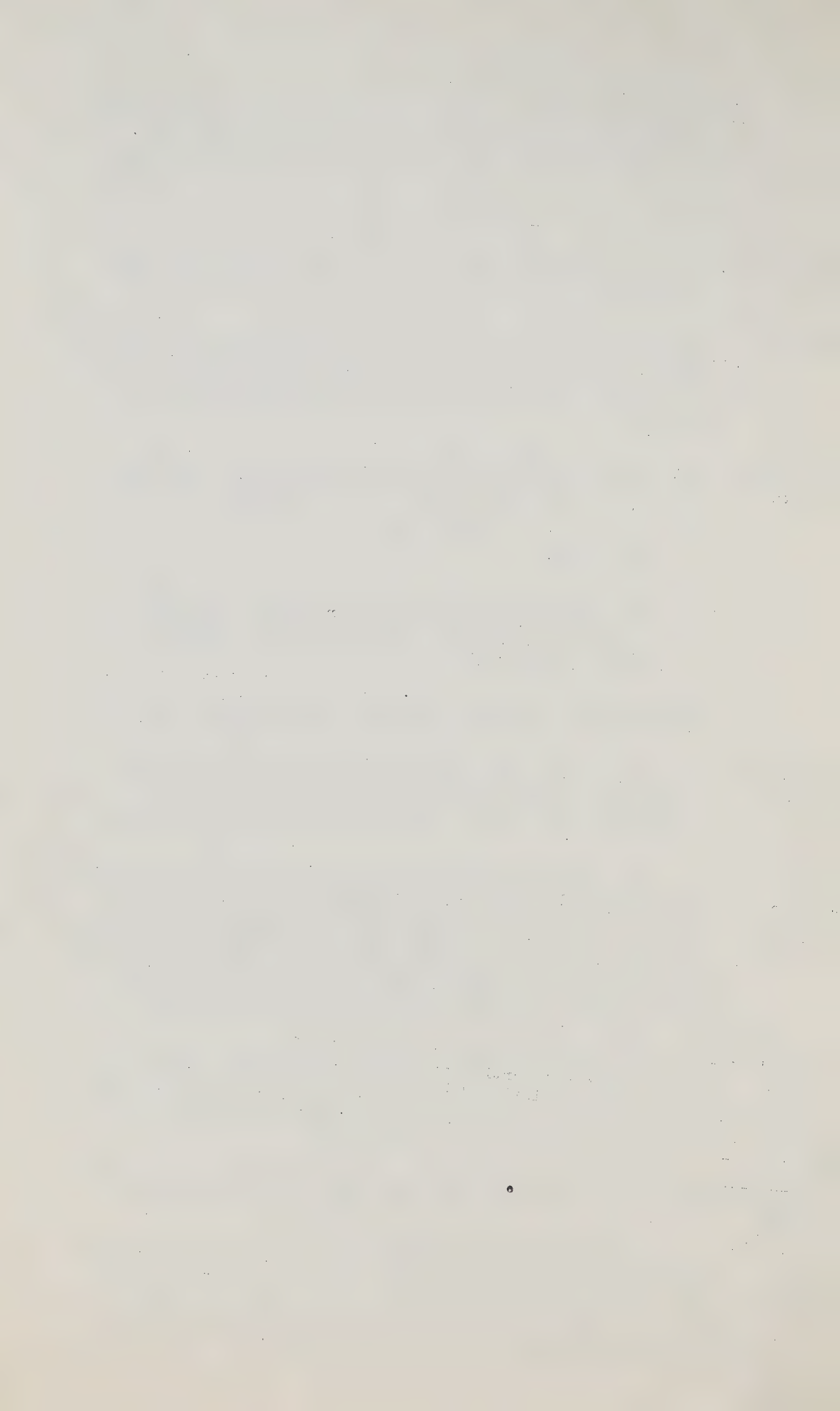
(6) The amount borrowed under subsection 2, in respect of the owners' portion of the cost, shall not be deemed to be part of the existing debenture debt of the corporation within the meaning of the provisions of The Municipal Act limiting the borrowing powers of the municipality.

Corporation's portion may be included in yearly estimates

(7) Instead of borrowing the amount of the corporation's portion of the cost of a work undertaken, the council may include the same in the estimates of the year.

Disposal
of excess
sums

(8) When the amount realized from the debentures exceeds the amount of the cost of the work, the excess sum shall be applied in the manner provided in subsection 2 of section 315 of The Municipal Act, unless all the rates have been levied under the by-law in which case the excess sum shall be paid pro tanto to the owners, at the time such payment is made, of the land on which the rates were levied.



Application
of subs.

48. (9) Subsection 8 shall not apply to a by-law passed prior to the 1st of January, 1941.

Consolidation
of by-laws

49. (1) Where two or more works have been constructed and the by-laws provided for by subsection 2 of section 48 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by by-law, hereinafter called the consolidating by-law, may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Recitals

(2) The consolidating by-law shall show by recitals or otherwise in respect of what separate by-laws it is passed.

Rates not
to be im-
posed by
consoli-
dating
by-law

(3) It shall not be necessary that the consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose.

Consolidating by-law may authorize debentures of different terms of years.

(4) In cities a consolidating by-law passed under subsection 1 may authorize the issue of debentures in one series notwithstanding that some of the debentures may be for different terms of years from the other debentures to be issued thereunder, provided the sum to be raised in each year under the consolidating by-law shall equal the aggregate of the sums which would have been raised under the separate by-laws had no consolidating by-law been passed.

One by-law for several works

50. Instead of passing a by-law under section 48 in respect of each individual work, a council may pass one by-law in respect of several local improvement works giving in such by-law in respect of each work substantially the same information as would be given in several by-laws respecting such works, and may provide in such by-law for borrowing the aggregate cost of the several works and for issuing one series of debentures therefor.

Term of
annual instalments
of special
assessment

51. (1) The council shall impose upon the land liable therefor the special assessment with which it is chargeable in respect of the owners' portion of the cost, and the same shall be payable in such annual instalments as the council shall prescribe, but not so as to extend beyond the lifetime of the work unless the work is of the class prescribed in clause 1 of subsection 1 of section 3, in which case the annual instalments may extend over a period of not more than forty years.

Interest

(2) In fixing the amount of the annual instalments a sum sufficient to cover the interest shall be added.

Commutation
of special
rates

(3) The council may also either by general by-law or by a by-law applicable to the particular work prescribe the terms and conditions upon which persons whose lots are specially assessed may commute for a payment in cash the special rates imposed thereon.

Time special
or general
rate may be
levied

52. Any special or general rate imposed by a by-law providing for the issue of debentures to pay for the cost or part of the cost of a work undertaken under this Act may be levied by the council as soon as the by-law is passed but not later than during the year next following the year in which such work is completed, and no such rate heretofore or hereafter levied shall be held to be illegal by reason of the debentures in respect to which the rate is levied, or any of same, not having been issued at the time of levying the rate.

Applica-
tion of
Rev.Stat.,
c.24

53. The provisions of The Assessment Act as to the collection and recovery of taxes, and the proceedings which may be taken in default of payment thereof, shall apply to the special assessments and the special rates imposed for the payment of them.

Maintenance
and repair
of work by
corporation

9 - "MAINTENANCE OF LOCAL IMPROVEMENT WORKS"

54. (1) After a work undertaken has been completed, it shall during its lifetime, be kept in repair by and at the expense of the corporation.

General
duty to
repair not
affected
Rev.Stat.,
c.243

(2) Nothing in this Act shall relieve the corporation from any duty or obligation to keep in repair the highways under its jurisdiction to which it is subject either at common law or under The Municipal Act, or otherwise, or impair or prejudicially affect the rights of any person who is damnified by reason of the failure of the corporation to discharge such duty or obligation.

Compelling
corporation
to repair

55. (1) Where, at any time during the lifetime of a work undertaken, the corporation fails to keep and maintain it in a good and sufficient state of repair, and, after one month's notice in writing by the owner or occupant of any lot specially assessed requiring the corporation to do so, does not put the work in repair, a judge of the Supreme Court, or the judge of the county court of the county in which the municipality lies, upon the application of any owner or occupant of any land so specially assessed, may make an order requiring the corporation to put the work in repair.

Determina-
tion as to
necessary
repairs

(2) The judge may determine what repairs are necessary and by his order may direct them to be made in such manner, within such time and under such supervision as he may deem proper.

Remuneration
of person
supervising

(3) Where a person under whose supervision the repairs are to be made is appointed, the judge may fix and determine the remuneration to be paid to such person and the same shall be paid by the corporation and payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

Effect of
order

(4) The order shall have the same effect and may be enforced in like manner as a peremptory mandamus.

When repairs
may be
made by
applicant
and payment
thereof

(5) If the corporation does not comply with the order of the judge, in addition to any other remedy to which the applicant for the order may be entitled, the judge may authorize the repairs to be made by the applicant, and if made by him the cost thereof shall be ascertained and determined by the judge, and when so ascertained and determined, payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

Appeal

(6) An appeal shall lie to the Court of Appeal from any order made under this section.

10 - "WORKS ON BOUNDARY LINES"

Power to
Construct
works on
boundary
lines

56. (1) Where a highway forms the boundary between two or more municipalities although it lies wholly within one or partly within two or more of them, the corporations of the municipalities may agree,

- (a) to undertake in respect of the highway or any part of it any work or service which may be undertaken as a local improvement under this Act;
- (b) as to the council by which the work or service shall be undertaken;
- (c) as to whether the corporations' portion of the cost shall be provided for by borrowing or shall be included in the estimates of the year;

56. (1)

(d) as to the proportions in which the corporation's portion of the cost shall be borne by such corporations respectively.

Powers and
duties of
initiating
council

(2) The council of the municipality which according to the agreement is to undertake the work or service, hereinafter called the initiating council, shall have all the powers and perform all the duties in respect of it which may be exercised or are to be performed by the council of a municipality which undertakes a work or service as a local improvement under this Act, and the highway shall, for the purposes of the work or service, be deemed to lie wholly within and to be under the exclusive jurisdiction of the initiating council.

Certified
copies of
by-law to
be sent
to clerks
of other
municipal-
ities

(3) The clerk of the initiating council shall forthwith, after the passing of its by-law imposing the special rates to defray the owners' portion of the cost, deliver or transmit by registered post to the clerk of any municipality in which is situate any land upon which a special rate has been imposed a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Collection
of rates
in other
municipal-
ities

(4) The rates required by the by-law to be levied and collected in any year upon land in any municipality other than that by the council of which the by-law is passed shall be collected by the council of such municipality in like manner as if such rates had been imposed by that council.

Payment
over to
initiating
council

(5) The corporation of each of the municipalities other than that by the council of which the work or service is undertaken shall pay to the last-mentioned corporation the sums which are to be levied and collected in that year under subsection 4, and such payment shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them.

Payment not
to relieve
land ass-
essed.

(6) Such payment shall not relieve any land specially assessed from the special rate thereon, but it shall remain liable for the special rate until it is paid.

Payment
over
where
corpora-
tions'
part in-
cluded in
estimates

(7) Where the agreement provides that the corporations' portion of the cost shall be included in the estimates of the year, the corporation of each of the municipalities, other than that by the council of which the work or service is undertaken, shall pay to that corporation when the amount of the corporation's portion of the cost is finally determined its share or portion of such cost, and the amount so paid shall be provided for in the estimates for the then current year of the council of the corporation which is to pay it.

Where
corpora-
tions'
portionment
by issue of
debentures

(8) Where the agreement provides that the amount required to defray the corporations' portion of the cost is to be borrowed, the corporation of each of the municipalities, except that by the council of which the work or service is undertaken, shall in each year during the currency of the debentures issued for the money borrowed pay to that corporation the same proportion of the principal and the interest payable in that year as under the agreement it is to bear of the corporations' portion of the cost, and the amount which the by-law for borrowing the money requires to be raised in that year shall be reduced by the sum so paid.

Maintenance
repair

(9) The corporations shall bear the cost of keeping the work in repair in the proportions in which the cost of the work is to be borne by them.

Construction of bridge over ravine separating municipalities 57. (1) Where a ravine separates the lands of adjoining municipalities and it is deemed desirable to construct a bridge connecting the lands of the municipalities, the council of either municipality may pass a by-law for undertaking the work of constructing the bridge or of constructing the bridge combined with any other work which may be undertaken as a local improvement and the provisions of this Act shall apply except that, subject to subsections 2 and 3, no part of the cost of the work shall be assessed upon lands in the other municipality.

Agreement with other municipality as to proportion of cost to be borne by it (2) Where lands which will be benefitted by the work lie within the limits of any municipality other than the initiating municipality, the council of the initiating municipality may agree with the council of the other municipality as to the proportion of the cost of the work to be borne by the corporation of that municipality and the lands within it, and such last-mentioned council may pass a by-law for the issue of debentures for the amount of such proportion, payable within such period not exceeding twenty years, as the council may determine, and it shall not be necessary that the by-law be submitted to the vote of the electors.

Powers of other municipality to specially assess land (3) The council of such other municipality may proceed under this Act for the purpose of assessing the lands within it, which will be benefitted by the work their proper proportion of the amount which it has agreed to contribute to the cost of the work in the same way as if the work had been undertaken by such council and the amount to be so contributed were the cost of the work, and the proceedings shall be in accordance with the provisions of this Act.

SPECIAL PROVISIONS AS TO TOWNSHIPS, VILLAGES, ETC.

Additional works in townships and villages 58. In addition to the works authorized to be undertaken in section 3, the council of a township or village may undertake as a local improvement the construction, renewal or replacement of water works, the laying of mains and other appliances to connect with any existing system of water works whether owned by the corporation or any other person, the construction of sewage treatment works, or the construction of such works, plant, appliances and equipment as may be necessary for street lighting.

Assessment of cost of works in areas 59. (1) The council of a township or village may, in the by-law for undertaking any work as a local improvement, define an area in the township or village and provide that the cost of the work including debenture charges and the cost of maintenance and management of the work including the cost of the utility supplied shall be assessed and levied on the rateable property in the area.

Assessment of cost of certain works (2) Where the work is the construction of a water main, sewer, sidewalk, curb, pavement or street lighting, the by-law may provide that the whole or a part of the cost of the work shall be assessed upon the lots fronting or abutting on the work and in such case the balance of the cost including debenture charges, if any, and the cost of maintenance and management including the cost of the utility supplied shall be assessed and levied on the rateable property in the area.

Debentures (3) The corporation may by by-law provide for the issue of debentures for any work undertaken under this section.

Notice of intention unnecessary 59. (4) Where a local improvement area is defined under this section and the by-law provides that the cost of the work shall be assessed and levied on the rateable property in the area, it shall not be necessary to serve notice of intention to construct the work upon the owners of lots in the area.

Alteration etc. of areas 60. Where a local improvement area is defined under section 59, the area may by by-law, subject to the approval of the Board, be enlarged, reduced, altered, dissolved or amalgamated with any other such area and in such case the Board shall make any necessary adjustments of the assets and liabilities of the areas affected.

Purchase by township of works already constructed 61. In a township, town or village in unorganized territory where the owners of land have constructed a work which might have been undertaken as a local improvement, the council, upon the petition of three-fourths in number of the owners of the land to be immediately benefitted by the acquisition of the work, representing at least two-thirds of the value of such land, may acquire the work at a price agreed upon or to be determined by arbitration under The Municipal Act, and the purchase money may be provided by the council and may be assessed in like manner as if the work were a work which the council were undertaking as a local improvement, and all the provisions of this Act shall apply as if the council were undertaking the work so acquired as a local improvement.

SPECIAL PROVISIONS FOR STREET WIDENING

Widening costs in certain cases 62. (1) Where the work to be undertaken is the widening of a pavement on a street without a petition, the by-law for undertaking the work shall provide that in addition to the corporation's portion of the cost including the portions otherwise provided for in this Act there shall also be included in such portion so much of the cost of the work as is incurred in the construction or reconstruction of the pavement to a width greater than the width of the pavement then existing on the street.

Lifetime of the work of pavement widening (2) Where the work is the widening of a pavement which has been constructed as a local improvement, and the lifetime of which has not expired, the unexpired portion of the lifetime of the pavement so constructed, shall be the lifetime of the work.

MISCELLANEOUS

Special rates and covenant against encumbrances 63. The special assessment and the special rates charged or chargeable upon land for or in respect of the cost of any work undertaken, whether upon petition or otherwise, except so much of them as is in arrear and unpaid, shall not, as between a vendor and a purchaser, or as respects a covenant against encumbrances, or for the right to convey, or for quiet possession free from encumbrances, be deemed to be an encumbrance upon the land upon which the special rate is charged or chargeable.

64. Where a private drain connection, gas or water service pipe has been constructed by a municipality at the request of the owner of the land and the council has not proceeded under section 5, the amount due may be inserted in the collector's roll and be collected in the same manner as taxes.

Where
by-law
quashed
court may
direct
passing
of new
by-law

65. (1) If the special assessment in respect of it has become confirmed under section 46, no by-law for borrowing money to defray the cost of the work or for imposing the special assessment shall be quashed, set aside or adjudged to be invalid by reason of its illegality or of any defect in it, but the court in which any proceeding for quashing, setting aside or declaring to be invalid the by-law is taken shall on such terms and conditions as to costs and otherwise as may be deemed proper direct the council to amend or to repeal the by-law and, where a repealing by-law is directed, to pass a new by-law in proper form in lieu of the repealed by-law, and it shall be the duty of the council to pass such by-law or by-law accordingly.

Liabilities
incurred
to be
binding

(2) Every liability or obligation incurred and every debenture issued by the corporation under the authority of any such defective or illegal by-law shall be as effectual and as binding as if the amending by-law directed to be passed had been passed and was in force at the time the liability or obligation was incurred or the debenture issued.

Where
court of
its own
motion
directs
passing
of new
by-law

(3) Although no proceeding has been taken to quash, set aside or declare invalid the by-law, the council may of its own motion and if required by any person to whom it has incurred any liability on the faith of the by-law shall pass such amending or new by-law as may be necessary to make effectual and binding the liability so incurred, and any debenture issued under the authority of such by-law, and the provisions of subsection 2 as to the effect of an amending or new by-law shall apply to any by-law so passed.

Cleaning,
watering,
lighting
streets,
etc.

66. (1) The council may by by-law provide that thereafter the annual cost of cleaning, clearing of snow and ice, watering, oiling, sweeping, lighting, light supplied in excess of that supplied at the expense of the corporation at large, cutting grass and weeds and trimming trees and shrubbery on any street, or anyone or more of such services shall be specially assessed upon the land abutting directly on the street according to the frontage thereof, and the foregoing provisions of this Act shall not apply to such services.

Street
lighting,
apportion-
ment of
cost

(2) As to any of the services mentioned in subsection 1, the by-law may provide that a part of the annual cost may be assessed upon the lands abutting directly on the street and that the remainder of such cost shall be assumed by the corporation at large.

Application
to defined
areas

(3) Instead of naming the particular street or streets, by-law may apply to all the streets in a defined section or sections of the municipality.

Special
rate

(4) Where the council so provides the amount of the special rate imposed to defray such cost may be entered on the collector's roll and collected in like manner as other taxes.

Duration
of by-law

(5) The by-law shall remain in force from year to year until repealed.

Board
may pre-
scribe
forms

67. The Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other, proceeding which is in substantial conformity with the form so approved shall not be open to objection on the ground that it is not in the form required by the provisions of this Act applicable thereto; but the use of such forms shall not be obligatory.

Form 4

C I T Y O F

NOTICE

To.....

.....

TAKE NOTICE THAT:

1. The Council of the Corporation of the of
 has constructed as a local improvement a (describe the work)
 (describe the points between which the work has been constructed)
 on the side of Street fromto

.....

2. The cost of the work is \$..... of which \$..... is to be paid
 by the Corporation. The special rate per foot frontage is \$.....
 The special assessment is to be paid in annual instalments.

3. The estimated lifetime of the work is years.

4. FOR INFORMATION OF PROPERTY OWNERS

Your property forming part of the property to be specially
 assessed had an assessable frontage of feet, and your pro-
 portion of this cost is \$..... payable within days after the
 sitting of the Court of Revision OR payable in equal annual
 instalments of \$....., including principal and interest for
 years payable with your municipal taxes.

5. In order to avoid interest charges of, payment of this
 account in the amount of will be accepted within days
 after the sitting of the Court of Revision.

6. A Court of Revision will be held on the day of,
 (Insert place of meeting)
 195 , at o'clock, at the
 for the purpose of hearing complaints against the proposed assess-
 ment or the accuracy of the frontage measurements, and any other
 complaint which persons interested may desire to make and which is
 by law cognizable by the Court.

or where the Court of Revision
 proceeds under section 46

Form 4 (continued)

7. You are served with this notice because the court of revision is of opinion that your lot, though not specially assessed, should be specially assessed in respect of the owners' portion of the cost of the work and an adjourned sitting of the court will be held on the day of, 19..., at o'clock
(Insert place of meeting)
at the when the matter will be determined by the court.

Dated at this day of195....

.....
Clerk

PROPOSED LOCAL IMPROVEMENT ACT.

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SUGGESTED AMENDMENT TO THE LOCAL IMPROVEMENT ACT

Supplied by The City Engineers' Association - 33rd meeting held on October 4, 1962.

(a) By adding to Subsection (1) of Section 29 the following words:

"and the Council may by by-law cancel the special assessments which were imposed against the frontage which subsequently became flankage, and which assessments would not have been imposed had it been flankage at the time the work was carried out. The by-law may cancel all the annual assessments imposed which have not been collected prior to and after the date the by-law is passed. The amount of the assessment ~~so~~ cancelled shall be charged against the corporation."

so that the said Subsection (1) shall read as follows:

(1) Where a local improvement is carried out and an exemption is made of flankage of a lot which flankage later becomes a frontage on the work that has been carried out, the corporation may by by-law impose a special assessment of such amount as would have been assessed against such flankage had it been frontage at the time of the passing of the by-law; and the Council may by by-law cancel the special assessments which were imposed against the frontage which subsequently became flankage, and which assessments would not have been imposed had it been flankage at the time the work was carried out. The by-law may cancel all the annual assessments imposed which have not been collected prior to and after the date the by-law is passed. The amount of the assessment so cancelled shall be charged against the corporation.

THE CITY ENGINEERS' ASSOCIATION OF ONTARIO

The Honourable The Minister of Municipal Affairs,
Parliament Buildings, Toronto, Ontario.

RE: "Local Improvement Act"

Dear Mr. Minister:-

The Local Improvement Act and the problems concerned with its administration have been the subject of debate and discussion at every meeting of the City Engineers' Association since it was formed. This Act, last completely overhauled forty-seven years ago, has since then been subject to many amendments and given many interpretations by Courts of Revision and County Judges. Only last year, for the first time, was an appeal from a County Judge's decision provided for. Previous to this, Courts of Revision were seemingly bound by County Judges' decisions that were reported, as well as by some others that were made available by appellants who had a particular interest in an unusual decision, which were unreported, in official proceedings. When cases were brought before a Judge, some Judges felt bound by these decisions of other County Court Judges, while others with the courage to think things out for themselves did not always feel so bound, and under identical circumstances have given decisions at variance with those of others. In all but a few cases, this Act is the concern of the Municipal Engineer who is involved with every step in the proceedings from the initial consideration of a project right through to assessment appeals.

In 1953, the Ontario Municipal Association, by resolution, declared that in its opinion the Local Improvement Act needed not a few amendments but a complete revision. The resolution asked that in this revision the Municipal Engineers, who are more closely concerned with the Act than any other officials, should be represented on any committee selected for the job.

4cc Later, the need for this revision was further discussed with the Minister of Municipal Affairs. He, in turn, requested the City Engineers' Association to take on this project and to make recommendations. The Association accepted the task and set to work. It appointed a committee of its more experienced members to spearhead the job. Its task has taken a considerable time. The Committee members, concerned with their regular day-to-day work across the province, met on many week ends. They have been assisted by an

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Postpaid.

The American Medical Association is a non-profit corporation organized for the purpose of promoting the interests of the medical profession and the public. It was founded in 1847 and has since that time been the leading organization of the medical profession in the United States. The Association is composed of more than 50,000 members, who are organized into local, state, and national societies. The Association's primary concern is the advancement of the medical profession and the improvement of the medical service to the public. It does this by publishing the Journal of the American Medical Association, which is one of the most important medical journals in the world. The Journal contains the latest news and information in the field of medicine, and is read by every physician in the United States. The Association also publishes a number of other journals, including the American Journal of Hygiene, the American Journal of Pathology, and the American Journal of Obstetrics and Gynecology. In addition to its publishing activities, the Association is also engaged in a number of other important activities. It has a large library of books and journals, and it maintains a number of research laboratories. It also has a number of committees and commissions, which are responsible for carrying out the Association's various programs and activities. The Association's work is financed by the contributions of its members, and by the sale of its publications. The Association's income is used to carry out its various programs and activities, and to maintain its facilities and equipment. The Association's work is of great importance to the medical profession and to the public, and it is one of the most important organizations in the United States.

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experienced City Solicitor and have also amongst their members a former City Treasurer.

It was decided early in the proceedings that the principle of the Local Improvement Act was still sound but that in its application there should be some local freedom in adapting it to local circumstances. It was also felt that the Act should have a complete editorial revision, incorporating its various provisions into sections dealing with the same or allied matters. At the present time there appears to be very little order in its arrangement.

It was also realized that, since the meaning of some sections had been overlaid with many useful judicial decisions, as far as possible such clearly defined sections should not be changed, unless a change appeared necessary to correct some new interpretation that was at complete variance with the generally accepted meaning, established by long years of satisfactory and sensible application. Where a section of the Act had, for many years and through many Courts of Revision and Appeals, been given one interpretation, and is then suddenly given a freak interpretation duly recorded in the Weekly Notes, the Municipal authorities are naturally puzzled.

Now the result of several years of study, made at the specific request of one of your predecessors in office, is embodied in a draft revision of the whole Act, which we now submit for your consideration and on behalf of our Association, which includes all urban municipal engineers regardless of the type of municipal organizations in which they serve. This final draft is based on the results of submissions of the Committee's proposals to two annual general meetings of our Association in order to obtain as wide a criticism as possible by the officials most intimately concerned with this legislation. We request that this suggested revised Act may be studied as soon as possible and we hope, without too much alteration, be eventually made into law. Our organization or its special committee is still ready to give further assistance if requested. In the attached comments our committee's suggestions for clarification or amendment are set out in detail.

It is of interest that one member of our committee also served on a similar committee of Engineers appointed by the Ontario Division of the Engineering Institute of Canada, with the same objective, over thirty years ago. Two

of the more experienced members of our committee were not permitted to see the completion of this work -- Mr. W. H. Riehl, P. Eng., late City Engineer of Stratford, and Mr. Nicol McNicol, P. Eng., late Works Commissioner of Forest Hill.

Respectfully submitted,

April 24th, 1958

OFFICES ON SCARBOROUGH'S GOLDEN MILE

Oliver E. Crockford
MUNICIPAL CONSULTANT

88 HARRIS PARK DRIVE
SCARBOROUGH

TELEPHONE
PL. 5-0312
PL. 5-0233

- INDUSTRIAL - COMMERCIAL - RESIDENTIAL
DEVELOPMENT EXPEDITED
- VALUATIONS - ARBITRATIONS ANALYTICAL
REPORTS
- PROMOTION - ASSESSMENT APPEALS

Mrs. H. G. Rowan, Secretary,
Select Committee on Municipal & Related Acts,
Parliament Bldgs.,
Toronto, Ont.

Dear Madam,

I have taken notice of the advertisement by the Select Committee of the Legislature requesting interested parties to direct attention of the Committee to much needed revision of the Statutes. I, therefore, desire to submit, as a result of my experience in these matters, several proposals which I believe should be enacted. The situation, as it is today, creates grave hardship on the citizens of this Province.

1. EXPROPRIATION OF PROPERTY.

I submit that persons, who may be unfortunate in having their property expropriated by a Government Corporation whether that body is a Municipality, Provincial or Federal Government or a Commission, should be promptly, adequately and without expense to themselves, compensated.

I also submit that no such authority should be assisted by Planning Boards, Municipal Councils, Municipal Officials or any Government Agency by sterilizing any privately owned property because some authority anticipates that it may require such property in the future but is not prepared to expropriate at the time the owner proposes to put his property to some specific use or sell same.

In my opinion, there should be some form of penalty on Government bodies practising this latter type of sterilization of property without expropriation. Citizens are forced to pay taxes on land which they cannot sell or use, sometimes for several years, as a result of this improper procedure. Many property owners lose the opportunity of selling their property when they are in urgent need of funds. The Provincial Department of Highways and Metropolitan Toronto are two of the most flagrant offenders in this regard.

In the case of legal expropriation, the Act should make it imperative that the owners be adequately compensated. If the property is required for public purposes, the public should expect to pay a satisfactory price. For example, in the case of a home owner, the compensation should cover the cost of moving, purchasing comparable accommodation, fixtures such as broadloom, curtains, etc. which the owner must replace in new premises. In addition, the legal cost for settlement with the expropriating

EXPERT IN FIELD OF MUNICIPAL ADMINISTRATION - PROJECTS AND PLANNING

OFFICES ON SCARBOROUGH'S GOLDEN MILE

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REPORTS
- PROMOTION - ASSESSMENT APPEALS

- 2 -

authority plus the legal costs for the purchase of comparable property. An individual citizen should not be penalized because he is unfortunate in having his property required for public use.

The present system of settlement is most unjust and inequitable. In some cases for a road widening, I have seen a large number of citizens paid off at .25¢ to .50¢ per square foot while his next door neighbor, who refused the settlement on this basis, would take the matter to Arbitration and receive an increased offer from the result of arbitration of from \$1.00 to \$1.50 per square foot. Why should the majority, who were inadequately paid, suffer their loss because they did not either understand or could not afford the costs of Arbitration Proceedings ?

2. THE LOCAL IMPROVEMENT ACT.

Section 28 - 1,2,3,4 and 5. These sections cover corner lots which have two frontages but not a lot that has a flankage on one street and frontage on another. There have been many cases where a property owner has paid for services for his property on his flankage on a lane but was forced to pay a second time on his frontage for services which he did not require. The Act should be amended so that it covers all lots. This would implement the principle that a citizen must not be required to pay a second time for services which he has previously been supplied and for which he has paid.

Secondly, the Local Improvement Act should be extended to cover the installation of services in subdivisions which are usually paid in cash by the subdivider. This is essential for several reasons as listed below;

- (a) There is no uniformity in the levies made by Municipalities. Each Council follows a different policy.
- (b) There is, at present, no legal basis for collecting from subdividers. At present a form of blackmail is followed and the developer must meet Council's requirements or the Planning Department refuses to approve the Registered Plan.
- (c) Citizens purchasing homes in subdivisions are penalized by the present system. They are forced to pay 100% for their services which are added to the price of their homes and then they must pay in their tax levy the Corporation's share on Local Improvements installed on other Municipal streets. The present system, for this reason

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- 3 -

is unfair to home owners buying in subdivisions.

3. THE FIRE MARSHALL'S ACT.

The application of this Act to citizens, through the use of a Licensing By-law, should not be allowed.

The authority of Enforcement Officers acting under the Fire Marshall's Act should be spelled out and not left to the personal opinion of the Enforcement Officers. Under present conditions, in a single Municipality, you will find as many different view points and orders as there are inspectors.

The Fire Marshall's Act should not have power to order changes in construction which is not required by the Building By-laws of the Municipality. If the Fire Marshall's Department have beneficial suggestions re the type of construction, they should make representation to have the Building By-laws amended and the enforcement of the Building By-laws should be the responsibility of the Building Department.

4. THE PLANNING ACT.

Legislation should be enacted to stop the illegal charges being made by Municipalities when Registered Plans are approved or Consents given.

On a recent application, one of my clients was charged \$500 per lot upon approval of an application for Consent. The charge was designated to be an "Administrative Grant". Municipalities vary in the charges made but practise a form of "blackmail" by refusing approval unless the charges are paid. This is illegal and a grave hardship on citizens suffering from excessive taxation who wish to reduce their burden by having a large lot divided. Large developers can afford the payments but the small owners are forced to sell at low prices to speculators by such practises.

Provincial Legislation should not be used to extract money from citizens in this manner. The Municipal Council should assume the responsibility of levying taxation to meet Municipal costs. Reducing the tax levy by making special charges on any group of citizens should not be permitted.

DIRECT SELLERS ASSOCIATION

67 YONGE STREET — SUITE 1401

TORONTO 1, ONTARIO

EMPIRE 3-7261

September 13, 1961.

Chairman and Members,
Select Committee on the Municipal Act and Related Acts,
Legislative Assembly of Ontario,
Parliament Buildings,
Queen's Park,
Toronto, Ontario.

Gentlemen:

The Direct Sellers Association represents a group of well known, long established manufacturers who distribute their products direct to the home through independent retailers. It is affiliated with the Canadian Manufacturers' Association. A list of members is attached to this submission as an appendix.

Direct selling is one of the oldest forms of merchandising. In pioneer days, home-to-home selling was responsible for introducing new products and creating both a demand and steady market for them in Canadian homes. Direct selling has also been largely responsible for creating the initial market for many items of daily use such as household appliances. Manufacturers who employ this direct to consumer method of selling their products do so because experience has proved it to be the most effective means of marketing the particular products which they manufacture.

The Association wishes to make representation on behalf of its members in respect of the following matters:

1. THE MUNICIPAL ACT - SECTION 247(4)

The said Section of the Municipal Act permits complete discretion as to the granting or refusing of a license to any person to carry on a particular trade, calling, business or occupation, or the revoking of same by the authorized individual or body entitled by law to issue such licenses. The sub-section further provides that such individual or body "is not bound to give any reason for refusing or revoking a license and its action is not open to question or review by any court."

Sub-section (9) of the said Section 247 however, provides for a final appeal to a judge of the supreme court from the decision of a Board of Commissioners of Police in refusing or revoking a license.

It is respectfully submitted that this anomaly is ill conceived and should not be permitted to continue.

The completely arbitrary right to grant, refuse or revoke a license is a right to permit or deny a person from carrying on a perfectly legitimate, lawful business in the pursuit of his livelihood. It is respectfully submitted that no other public authority, nor in fact any member of our judicial system is given such a blanket authority. As part of our system of justice there has always been an inherent right for a person to appeal from a decision in order to prevent, among other things, unauthorized and completely arbitrary use of power.

It would seem the Legislature acknowledged this in enacting sub-section (9) referred to above. If this is so, it is suggested there is even more justification for the provision of an appeal in all other instances, since in its practical application the licensing function of a council is most often delegated by council to a single individual whereas, the licensing granted by a Board of Police Commissioners is handled by a group of men where a system of checks and balance is provided.

It cannot be suggested that a Board of Police Commissioners is less competent to decide if a license should be granted, refused or revoked than a Council or its appointee.

A person granting, refusing or revoking a license should be answerable for his action and should be able and required to support it with sound reasons. If such were not the case, licensing could be handled in a very discriminatory fashion. The uncertainty which would be generated would make it almost impossible to carry on business with any assurance that after making a substantial investment one might neither enter into business nor remain in business except on a day to day basis subject to the decision of an individual in the employ of the municipality.

Gentlemen, the complete unfairness of the present provisions of Section 247(4) requires in our respectful submission, an amendment to provide:

- (a) the right to appeal a decision of the licensing granting authority to a judge of the supreme court of Ontario on their refusal to grant a license or their revoking of a license.
- (b) the requirement that a licensing granting authority give written reasons for its refusal to grant a license or for revocation of a license.

2. THE MUNICIPAL ACT - SECTION 399(1)(f)

It is generally accepted in all jurisdiction across Canada that license fees are established as a means of providing regulatory control rather than as a means for augmenting municipal revenue. With this principle we heartily agree.

The provisions of Section 399(1)(f) requiring the approval of the Department of Municipal Affairs for license fees in excess of a statutory minimum has acted as a safeguard against unreasonable license fees being imposed by municipalities. This provision, we consider, corrected to a large degree the unfortunate situation which existed before the amendment of this Act in 1948. Prior to that time, municipalities had imposed license fees on the agents of members of this Association which were so high as to make it extremely difficult, and in many cases prohibitive, for these manufacturers to carry on their legitimate business within the boundaries of these municipalities.

We recognize that the provision for approval by the Department of Municipal Affairs of all license fees in excess of \$2.00 may generate a heavy burden of work on the Department. To remove part of this perhaps onerous burden and yet retain the necessary regulatory provisions, the Association suggests that, if it is the wish of the Government, the section in question be amended to provide that the Minister of Municipal Affairs be given regulatory powers to establish and revise as required, a scale of maximum license fees applicable to all municipalities based on population levels. This would have the additional advantages that:

- (a) such a scale of fees would be fair and non-discriminatory amongst municipalities.
- (b) it would assist members and their sales people immeasurably in determining their cost of home-to-home selling. Such costs could be calculated with certainty and reasonable assurance of continuity of business which is essential to a member developing markets for his product.

Similar license fee schedules have been established in other provinces and appear to operate with reasonable efficiency and fairness to all concerned. We therefore submit for your consideration, the following suggested schedule of fees:

Cities

With 50,000 population or over	\$25.00
With 20,000 but under 50,000 population	20.00
Under 20,000 population	15.00

Towns 10.00

Villages and Rural Municipalities 5.00

We further recommend that consideration be given to a separate scale of license fees for female sales people. Generally these women devote only part of their time to direct selling since in the majority of cases they are married women who have housekeeping and parental responsibilities at home and sell in an effort to supplement family income. Male dealers, on the other hand, normally devote their full working time to direct selling. Statements from members support this argument indicating that the average income of female sales people is much below that of their male counterparts.

We therefore suggest that license fees for females be \$5.00 lower in each category except the lowest, i.e.

Cities:

With 50,000 population or over	\$20.00
With 20,000 but under 50,000 population	15.00
Under 20,000 population	10.00

Towns 5.00

Villages and Rural Municipalities 5.00

As an alternative to a separate fee scale for male and female sales people we suggest that a regulation be adopted to provide that, notwithstanding the provision for a graduated scale of fees, no applicant shall be assessed a fee in excess of one percent (1%) of the individual's total retail sales for the preceding year providing the dealer was employed in direct selling prior to the current application for license.

While this is a departure from established licensing procedures, it would provide for a fee that would be equitable in relation to the volume of business concerned.

We respectfully request the opportunity of appearing before you to enlarge on these submissions and to answer any questions which you may wish to ask.

All of which is respectfully submitted.

Yours very truly,

C.E. Bennett,
President,
Direct Sellers Association.

CEB/JT

DIRECT SELLERS ASSOCIATION

Membership List

Avon Products of Canada Limited,
Montreal, P.Q.

Beauty Counselors of Canada Limited,
Windsor, Ontario.

Electrolux (Canada) Limited,
Montreal, P.Q.

Familex Products Limited,
Montreal, P.Q.

Filter Queen Corp. Limited,
Toronto, Ontario.

Fuller Brush Company Limited,
Burlington, Ontario.

The W.T. Rawleigh Company Limited,
Montreal, Quebec.

Regal Stationery Company Limited,
Toronto, Ontario.

Spencer Supports (Canada) Limited,
Rock Island, P.Q.

Stanley Home Products of Canada Limited,
London, Ontario.

Watkins Products Incorporated,
Montreal, P.Q.

West Bend Company (Canada) Limited,
Barrie, Ontario.

SUBMISSIONS TO:

SELECT COMMITTEE OF LEGISLATURE

on

THE MUNICIPAL ACT and RELATED ACTS

by

Councillor Kenneth A. Gariepy
Township of North York

1904

1905

1906

1907

1908

CONFLICT OF INTEREST

The Provincial Government realizing the lack of any provision in the Municipal Act concerning conflict of interest, by the addition of Section 198 A to the Act in 1961, made a feeble attempt to legislate on, and clarify this important field, which, in my opinion, is a breeding ground for Municipal corruption.

The Amendment reads as follows:

- "198a - (1) If a member of a council or local board, as defined in The Department of Municipal Affairs Act, has any pecuniary interest, direct or indirect, in any contract or proposed contract with the council or local board, as the case may be, or in any other matter in which the council or local board, as the case may be, is concerned and is present at a meeting of the council or local board, as the case may be, at which the contract, proposed contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter.
- Subsection 2 provides that if the interest of a member as described in subsection 1 is not disclosed by reason of absence from the meeting then the member shall do so at the first subsequent meeting attended by him and shall not take part in the consideration or discussion etc. as described in subsection 1.
- Subsection 3 states that subsection 1 does not apply where the member's interest is such as might be held by any ratepayer or user of any service offered to the public.

Subsection 4 states that the failure of a member to comply with subsection 1 does not invalidate the proceedings.

Subsection 5 states that every disclosure of interest shall be recorded in the minutes.

Subsection 6 states that failure to make a disclosure of interest shall be recorded in the minutes.

It has often been said that for the most part the ethics of Municipal Politicians are on a par with those of the most respected businessmen who are looked upon as leaders of the community in which they live. It is my considered opinion, after my short experience in the field of Municipal Politics that such a comparison of ethics is meaningless. The ethics to be strictly adhered to by elected municipal officials should be so far above those of day to day business as to defy comparison. When municipal business is conducted on the level to which the everyday business world has sunk in recent years it can only be to the detriment of the electors in any municipality. What is considered to be practical procedure in the business world is in most cases a form of corruption when applied to municipal politics. The underlying difference is that the day to day business leader is working for a profit to himself and his partners. Indeed, his worth is often measured by the year end profit statement and in this respect, the end in business, very often, justifies the means. The municipal politician is, however, a trustee for his municipality and in deciding public issues, must be completely free from private considerations and the end can never justify the means. The element of profit, either to himself or to any person or corporation doing business with the municipality, should not be allowed as a consideration in the deliberations of any council member in dealing with public business.

I therefore propose that Section 198 A of the Municipal Act be extended along the following lines:

1. "The interest" referred to should not only be

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declared but a disclosure of exactly how the interest arises, its extent, financial value, and the persons involved in it should be made mandatory, in the public interest. For example, a solicitor member of Council in declaring an interest in a matter, could do so because he is a solicitor for a principal in a contract on the one hand, or, he could be declaring an interest because he has a very substantial personal financial interest in a plan of subdivision before the council. The electors, as well as his fellow members of council, are entitled to know the details of any interest declared by any member of council and so be able to govern themselves accordingly as the opportunity arises.

2. A severe penalty for knowingly failing to disclose an interest which subsequently is brought to light, should be provided in the legislation. The only penalty provided for failure to disclose an interest is that such failure must be noted in the minutes of a subsequent meeting. This, if intended to be a penalty, is in effect only a license to allow a council member to vote despite a conflict of interest. A proper penalty should be, that if a member of council or local board, knowingly fails to disclose an interest as required by the Municipal Act, he should cease to be qualified to sit as a member of council or local board for the remainder of his term of office, or until, at his request, the matter has been heard by the Ontario Municipal Board and a decision on the gravity of his conflict of interest, if any, has been rendered by the Board and a penalty has been assessed which shall not exceed disqualification to sit for the remainder of the council member's term of office.

3. "Interest" as such, should be more clearly defined by the legislation under consideration and should include:

(a) "relationship" by blood or marriage to the necessary degrees by persons in municipal office with persons having interests in contracts or matters before the Board or Council.

(b) "relationship" with persons, corporations or

principal shareholders in corporations in any professional capacity, e.g. as a solicitor, architect, engineer, accountant etc. for services paid for in fees by persons, corporations, related corporations or principal shareholders in such corporations in any other matters located in any other municipalities, notwithstanding the fact that no services have been rendered nor fees paid or accrued for the particular contract or matter under consideration by his own council or local board.

(c) "relationship" with any person, corporation or principal shareholders in corporations by way of any business dealings from which a member of Council or local board may derive a profit directly or indirectly from the person, corporation or principal shareholder of any corporation appearing before council or board on any matter. To give a few examples of such interest, I could point out the possibility of council members selling insurance policies on the life or chattels of land developers and contractors appearing before council or, council members selling any goods or performing any services in the ordinary course of their day to day business operation to any persons appearing before a council or board in any contract or matter notwithstanding the fact that it could be claimed that the decision made by the council or board bears no relationship to the business dealings between the council member or board member and the applicant. In order that this area of conflict might not be carried to such a degree as to disrupt the every day business of the council or board member, I would suggest that a limit on financial transactions of \$100.00 in any one year prior to the decision being made by the council or board be deemed not to be a conflict of interest for the purpose of this section.

4. The "conflict of interest" amendments should include all paid servants of the municipality, either permanent employees or those hired in a professional capacity on a temporary or retainer basis. There should be no provision for declaring any conflict of

interest because as paid employees, no conflict of interest should have occasion to arise, and if it does arise, the employee or person retained by the municipality should be subject to immediate dismissal.

5. Full time salary employees, after leaving the employ of a municipality, should, by properly enacted legislation, be prohibited either directly or indirectly from entering into any contract or having any interest in any matter, requiring the approval of council or any local board of the municipality formerly employing them, for a period of two years after leaving the employ of the municipality concerned. Such legislation should also bar any corporation, business, firm or individual from doing business with or having any matters before the council or any local board of the municipality formerly employing such a full time salaried person if they have employed such a person after he left the employ of the municipality concerned, for a similar two year period.

) The implications in this recommendation are obvious and need no further explanation. If the foregoing recommendations were enacted as legislation governing the conduct of municipal officials it would narrow the field for municipal corruption and would ultimately lead to its virtual elimination. It would provide indirectly, a code of ethics which would place municipal councillors and other officials on a level much higher than that of the business world to-day, as, in my opinion, is required by their positions of public trust.

CAMPAIGN EXPENSES of CANDIDATES in MUNICIPAL ELECTIONS

Provision should be made in the Municipal Act to require:

1. A limit on legal campaign contributions of money, goods or services made by any person or corporation to any candidate in any municipal elections for any office.

2. A limit on the value of money, goods and services spent by any candidate seeking any municipal election for any office.
3. Disclosure by all candidates of the amount of any monetary contributions, the value of any goods and services supplied, their individual sources, and a complete record of their expenditures in any election by sworn affidavit within two weeks after the election.
4. Failure to disclose the information required in 3. within the time prescribed or any breach of 1. or 2. should automatically invalidate the election of a successful candidate and should automatically bar an unsuccessful candidate from seeking any municipal office for a period of six years.

It is my recommendation that the limits prescribed for in 1. and 2. could be set out in the amended legislation according to the size of the municipality, the number of electors entitled to vote for the individual office and the importance of the office in relation to the salary already prescribed by the Municipal Act. Any deliberate falsification of the information required by 3. would, if ascertained, and proven, during the term of office of the elected member of council or board would automatically unseat him until such time as the matter was heard and dealt with by the Ontario Municipal Board in a similar manner as they would deal with "conflict of interest" matters in my recommendations under that subject.

RESPONSIBILITY of HEADS of MUNICIPALITIES

The Municipal Act, Section 211, sets out in capsule form the duties and obligations of the heads of council in all municipalities in the Province of Ontario. The responsibilities set

out in the section, embrace every facet of government operation and require a knowledge of every statute of the Province of Ontario relating to municipal affairs as well as a knowledge of the By-laws passed over the years, by the municipality which he heads.

Section 211(a) requires the head of a municipality "to be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed."

This responsibility is placed not on the Municipal Clerk nor the Solicitor nor the Treasurer nor the members of Council; but squarely on the shoulders of the Mayor or Reeve of the Municipality. He alone must know the law and cause it to be executed and obeyed.

Section 211(b) requires the head of the municipality, "to oversee the conduct of all subordinate officers in the government of it, and, as far as practicable, cause all negligence, carelessness and violation of duty to be prosecuted and punished;"

) By this subsection, the Mayor or Reeve must not only know his own duties and responsibilities but must be fully aware of the legislation governing the duties of subordinate officers such as the Clerk, the Treasurer and the members of his own Council.

It has often been said that municipalities are creatures of the Province of Ontario which gives them birth, supervises their growth and gives them all powers and duties by legislation duly enacted from time to time.

It is virtually impossible for any man, in most cases elected to head a municipality as a part time avocation, usually from a trade or profession quite remove from Municipal Government, sometimes with previous council experience but many times without; to know and understand the vast body of law and practice which must be executed and obeyed under his direct supervision.

Recently, the Provincial Government has become aware of the so-called scandals in a number of municipalities throughout Ontario. Incidental to the enquiries and hearings resulting therefrom, certain occurrences of corruption were brought to light and

duly acted upon with the attendant sensationalism which always follows the unearthing of corruption in any office of public trust. There is no excuse for corruption in any form especially for criminal breach of trust.

Far more important however, although not so much in the public eye, were the numerous incidents of absolute ignorance of the laws of the Province of Ontario relating to the conduct of Municipal Affairs in every aspect. Countless examples of negligence, carelessness and violation of duty on the part of heads of municipalities, council members and municipal officials, were for the most part, overlooked by the public as long as there was no taint of corruption or criminal intent coupled with such occurrences. There is no excuse for such ignorance and I believe it to be prevalent in municipalities throughout the Province and probably the whole of Canada. Practical experience in Municipal Government, eventually should give the head of a municipality some knowledge of the law under which he must operate his government but this is not a sure answer to the problem because of the insecurity of tenure in municipal life. Where mistakes in administration and dereliction of duty occur, ignorance of the law is generally accepted as an excuse, provided no corrupt motive is brought to light for such maladministration and carelessness; and if it becomes too prevalent in any given municipality, the electors may replace their council head and members, with others usually just as ignorant of the law and practice as their predecessors. While it is true that the Department of Municipal Affairs has been set up to regulate and assist and advise heads of Council and Councils on any matters within their jurisdiction, they cannot interfere to the extent that the municipal ¹⁶economy will be affected adversely. Furthermore, how can a municipality request advice and guidance through its Mayor or Reeve whose responsibility is, when the municipality is unaware that it requires advice and guidance, through ignorance that a given proposal or practice is illegal or improper.

There are two answers to the problem. The first is to have officials elected to office who have the intelligence, experience and proven records of administration in municipal affairs. This is ^{if} virtually impossible because men or women of this high caliber will, for the most part, stay as far away from municipal politics as possible. It is a thankless task with poor remuneration and few worthwhile compensations. Even if such candidates did seek election it frequently happens, especially in large municipalities, that the straight thinker is soundly defeated by the loud talker.

The second partial solution recognizes the fact that municipalities must make do with the material available to operate them. The material must be improved. Since the prime responsibilities and duties of operating a municipality within the framework of the Provincial Legislation, as set out in Section 211 of the Municipal Act, rests on the shoulders of the head of the municipality, it should be a mandatory provision of the act that all Mayors and Reeves in the Province of Ontario be required to take a course in Municipal Law and procedures to enable them to know and understand their duties and responsibilities, either before or shortly after taking office. Mandatory examinations, either written or oral would be required in all subjects taught until qualification was established even if the course had to be repeated by unsuccessful candidates. Satisfactory completion of such a course could lead to a certificate of qualification being awarded to successful candidates. The educational facilities of the university centres throughout the Province could be used and the instructors and lecturers could be provided by the universities and the Department of Municipal Affairs itself. The duration of the course of study and the times of lectures and instruction could be worked out to suit the majority of the people involved. Whether it would take the form of evening and week-end courses or a straight two week intensive program, are problems which I have not considered. The registration fees and personal expenses

of the candidates should be borne by the individual municipalities and the overall expense of setting up such courses of instruction should be paid by the Provincial Government. Eventually the courses of instruction could be widened to include all municipal council members at their option with the course at all times being mandatory for heads of councils. All trades and professions require years of training and practical experience in order to attain proficiency but in the very important calling of municipal politics no training or experience is required at all. This anomaly would cease to exist under such a plan and eventually could lead to prequalification of all candidates for election to municipal office. Not only would candidates be required to be twenty-one years of age, Canadian citizens and to be named in the assessment rolls but the public would be assured that all candidates had some knowledge of the duties and responsibilities of the position they were seeking. Corruption as such would not be eliminated but maladministration, negligence, carelessness and violation of duty previously excused by ignorance of the law and practice would then be inexcusable.

DATED at Willowdale, this 15th day of September, A.D. 1961.

KENNETH A. GARIEPY



BRIEF ON THE ASSESSMENT
OF PIPELINES FOR
MUNICIPAL TAX PURPOSES

Presented by
THE GAS AND PETROLEUM
ASSOCIATION OF ONTARIO

January, 1962.

BRIEF ON THE ASSESSMENT
OF PIPELINES FOR
MUNICIPAL TAX PURPOSES

Presented by

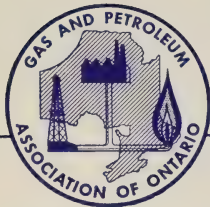
THE GAS AND PETROLEUM
ASSOCIATION OF ONTARIO

BRIEF ON PIPELINE ASSESSMENT IN ONTARIO

presented by

The Gas and Petroleum Association of Ontario

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GAS AND PETROLEUM ASSOCIATION OF ONTARIO

55 Scarsdale Rd.
Don Mills, Ontario
Hudson 8-0119

January 15, 1962

Dear Sirs:

This brief is presented to you by the Gas and Petroleum Association of Ontario and deals with the question of assessment of oil and natural gas pipelines for municipal tax purposes in the Province of Ontario.

The Gas and Petroleum Association of Ontario is an organization of corporations, firms and individuals engaged in the production, transmission, distribution and/or sale of oil and/or natural gas and the industries allied to the oil and/or natural gas industries. The Association has functioned continuously since 1919 and as is set forth in the constitution, the Association does not contemplate pecuniary gain to its members, but its first object is "to promote the development and efficiency of the natural gas and petroleum industries in all their branches to the end that they may serve to the fullest possible extent the best interest of the public". The Association is presently comprised of 199 individual and 87 company members, included within which are such companies, operating in Ontario, as Trans-Canada Pipe Lines Limited, The Consumers' Gas Company, Union Gas Company of Canada Limited, Imperial Oil Limited, Northern Ontario Natural Gas Company Limited, Provincial Gas Company Limited, United Gas Company Limited and Lakeland Natural Gas Company Limited.

The taxation problem involved in the assessment of oil and natural gas pipelines is substantial. The over-all assessment in Ontario in 1960 for seven oil and gas pipeline companies was \$79,634,645 and the total municipal tax paid by all these companies in 1961 was \$3,937,005 on pipelines only exclusive of lands and buildings. The total assessment and total taxes of various companies are shown in Schedule A attached. Since transmission pipelines and distribution pipelines are assessed under different sections of the Act, this brief deals first with transmission pipelines although the assessment of each type presents some common problems.





TRANSMISSION PIPELINES

All transmission lines are subject to the legislation originally enacted in 1956, now section 41 of The Assessment Act, R.S.O. 1960, Chapter 23 but it has become quite evident that the rates set out in the above-mentioned section have been most generous indeed to the municipalities involved and, in some cases, have produced gross inequities to some of the member companies. Attached hereto as Schedule B is section 41 R.S.O. 1960, Chapter 23.

Taxation resulting from the presence of a transmission pipeline in a municipality is perhaps the easiest form of taxation for the municipality and is "found money" because the line is buried underground. Furthermore, the company restores roads at its own expense and pays the private property owner for damages and for the right-of-way over his lands. The pipeline itself, in spite of its substantial assessment, asks for nothing and creates none of the usual industrial problems such as providing expensive public services and extensions to educational facilities. In addition, the assessment of a transmission pipeline involves the minimum of administrative expense, because certified pipeline footages are supplied to the municipalities by the companies involved and the application of the statutory rates in section 41 thereafter becomes automatic.

The foresight of the Legislature of Ontario in incorporating uniform rates for the assessment of transmission pipelines within The Assessment Act has had the effect of giving uniformity of assessment across the entire Province. Although this uniformity is a big step in the right direction, it has also had a discriminatory effect on transmission pipeline companies, due to the fact that in certain areas the same stability of assessment does not exist on other types of

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property. This situation is brought very noticeably to the fore in Northern Ontario, where the prevailing low assessment of other properties has resulted in an extremely high mill rate. One of our member companies is contributing more than fifty per cent of the total levy in several of the municipalities in which its pipelines are located. Specific cases can be supplied whereby municipalities and school districts, especially in Northern Ontario, have set their mill rates at a level which grossly discriminates against the pipeline company. For example, one school board in an unorganized district did not apply for the usual Provincial grants for three years after the first taxation of a gas transmission line, because the tax levy from the transmission company provided sufficient funds without the grants.

In view of the fact that transmission pipeline rates are statutory, (a condition with which we are in full accord), pipeline companies are placed in the position of not being able to appeal their own assessments. In municipalities where the level of assessment is much below that of the pipeline the only alternative is to appeal against other assessments. This condition creates numerous difficulties in municipalities and school sections where elected and appointed officials either refuse or are reluctant to bring their assessments to a proper level. Some of the difficulties resulting from this situation are as follows.

1. The time elapsing between the return of the Roll and closing date for receiving appeals is 14 days. This is insufficient time for the pipeline company to make appraisals on a sufficient number of properties against which they wish to appeal.
2. The pipeline company has no right of access to properties and is obliged to make an estimated appraisal from the street.

3. In one municipality, the taxpayers were notified by letter that the pipeline company was making appraisals, and that the company's action was not in any way sanctioned by council.
4. The date for return of the Roll in one instance was moved ahead from September 30 to August 20 by bylaw without notification to any taxpayer. This action was instrumental in the pipeline company losing its right of appeal.
5. Bylaws have been passed ordering a re-assessment of various municipalities and then rescinded after appeals by the pipeline company were withdrawn.
6. In many cases, assurances have been given in open council that a re-assessment would be undertaken. When the pipeline company appeals were withdrawn, no action was taken.

Evidence can also be produced to show that in some cases where pipeline assessment very substantially increased the total assessment of the municipality, the mill rates were at the same time increased. Inevitably, these taxation practices can only result in a higher transportation cost of the commodity involved and will tend to have a discouraging effect on the construction of future pipelines in such areas. Specific examples of the types of discrimination in addition to those above-mentioned may be found in Schedule C attached hereto.

While the above problems do exist, section 41 is working very well in general, and should be retained in the Act. Our suggestions for improvement may be found on page 14.

PIPELINE ASSESSMENTS IN OTHER PROVINCES

Schedule D shows the pipeline assessments established by statute or regulation in Ontario and in four other provinces where special legislation has been enacted for the assessment of pipelines.

The schedule shows that the transmission line assessments laid down in Section 41 of The Ontario Assessment Act are higher than those laid down in the Provinces of Manitoba, Saskatchewan and Alberta and lower than those laid down in the Province of British Columbia.

A comparison of the assessments of one class of property in the various provinces is meaningless unless consideration is also given to the general level of assessments in those provinces. While it is not always possible to say specifically what the level of assessment is in any province, it is possible to determine the generally accepted level measured in terms of values current in a particular year. For example, it is generally accepted that assessments in Ontario are intended to represent values current in 1940, although this does not apply to all municipalities in the province.

The following table indicates the general levels of assessment which we believe to exist in the provinces for which pipeline assessments have been compared.

<u>Province</u>	<u>Level of Assessments for Buildings and Improvements</u>
Ontario	1940 values
Manitoba	2/3 of 1940 values
Saskatchewan	60% of 1946 values
Alberta	60% of 1950 values
British Columbia	50% of 1959 values

The pipeline rates in Alberta are the most recently established rates, being the result of a study made in 1960. Those in the other provinces have been in use for several years.

It should be noted that in British Columbia the pipeline assessments shown on the schedule are for pipelines being fully utilized. These assessments are reduced if actual utilization is below 90% of the lines rated carrying capacity. Utilities are then taxed on 75% of the resulting assessment.

We believe that this comparison of pipeline assessments shows that, generally, pipelines in Ontario are assessed higher than those in other provinces.

The actual tax per mile paid by pipeline companies operating in various provinces is very significant, and the following table indicates that pipelines in Ontario are taxed considerably higher than similar lines in other provinces.

<u>Pipe Diameter</u>	<u>Province</u>	<u>Average Tax per Mile</u>	<u>Average Mill Rate in Municipalities in which Transmission Lines are Laid</u>
30"	British Columbia	\$1,076.85	31.85
30"	Alberta	605.73	30.5
34"	Saskatchewan	538.22	47.97
34"	Manitoba	413.92	58.42
30"	Ontario	1,245.03	60.93



DISTRIBUTION PIPELINES

This section of the brief deals with the distribution pipeline systems of gas utilities serving ultimate consumers in urban and rural areas.

Distribution pipelines are assessed under section 40 of The Assessment Act attached hereto as Schedule E. Subsection 3 of section 40 directs that distribution pipelines are to be assessed in accordance with section 35 of The Assessment Act at actual value. The determination of "actual value" by assessors has presented many difficulties and has led to several standards and methods of assessment. The result is that there is a pronounced lack of uniformity in the assessment of distribution pipelines even in adjacent municipalities in which the same company owns distribution systems. Some examples of this situation are shown in Schedule F.

Information obtained from the various gas utilities shows that out of 263 municipalities, for which information is available, 168 assessed distribution systems at the transmission rates stated in section 41; 27 assessed at the rates suggested on page 84 of the Manual of Assessment Values, second edition, 1954, or at rates lower than those, and 68 assessed at rates higher than those in section 41.

While there is a very distinct lack of uniformity in the assessment of the various distribution systems, there is often a notable disparity between the assessment of the distribution system and the level of the assessment generally throughout the same municipality in which the distribution system is located. For example, the general level of assessment in a municipality may be 60% of the Department of Municipal Affairs' values and in the same municipality, a distribution pipeline system may be assessed at 100% of the assessment based on section 41. Some examples are shown in Schedule G.

As a result of the confusion arising from the many interpretations of the term "actual value" in section 35 of The Assessment Act, many appeals have been made to Courts of Revision and to County and District Court Judges. Neither the utility companies nor the municipalities desire to engage in this continuous litigation, and the matter could be simply resolved by amending The Assessment Act so as to require distribution pipelines to be assessed at the same rates as transmission pipelines. In the Reasons for Judgment given by His Honour Judge J. C. Anderson, in Belleville on the 21st day of January, 1959, in an appeal by Lakeland Natural Gas Company Limited, His Honour states:

"It would seem to me that it is very difficult for an Assessor, in attempting to assess at its actual value, to take into consideration those things which the Act, under section 33, says he must take into consideration in making his assessment.

"Chapter 2 of the Statutes of Ontario, 1957, arrives at a mandatory figure for the assessment per foot of length for all gas transmission lines and it would be more satisfactory it seems to me if some similar mandatory figure could be arrived at for pipeline distribution lines....."

In modern pipeline systems, there is no material difference between transmission pipelines and distribution pipelines. Both types are made of the same material and are laid in the same manner. Transmission pipelines are usually, but not always, larger in diameter and operated at higher pressures than distribution systems. While transmission pipelines usually are laid mostly through open country or along main highways, or hydro rights-of-way, distribution pipeline systems are normally within urban municipalities and are buried in the street allowances. As in the case of transmission pipelines, taxation of a distribution system is an easy and ready source of taxation for the municipality. The lines are laid under the authority of a franchise from the municipality approved by the Ontario Energy Board, which sets out the obligations of both the gas utility and the municipality. Very heavy responsibilities are laid upon the gas utility to lay the line in accordance with the best engineering practice,

to lay on routes approved by the municipal engineer, to restore the property disturbed as reasonably as possible to its original condition, in some cases at great expense, and to indemnify the municipality against any claims arising out of the operation, maintenance, repair or removal of any part of the system. Distribution franchises are granted for a stated term of years and may or may not be renewed by the municipality. During the term of the franchise the gas utility normally extends and improves its distribution pipeline system at considerable capital expense and at the expiration of the term, this investment becomes almost worthless unless the franchise is renewed.

Unlike most industries locating in a municipality, distribution companies do not create, for the municipality, problems arising from industrial expansion such as a substantially increased demand for housing and expensive public services and additions to educational facilities. Distribution systems are laid at the expense of the gas utility and do not impose a burden of cost on the municipality or its taxpayers. Buildings and other properties of the gas utility are assessed and taxed in the normal manner.

Distribution pipelines are not specifically defined in The Assessment Act. Most gas utilities both transmit and distribute gas and frequently the utilities and the assessors are unable to agree as to whether certain pipelines are distribution or transmission. Under subsection 2 of section 41 (see Schedule B), it is mandatory for The Ontario Energy Board to designate as transmission pipelines all gas pipelines in Ontario that, in its opinion, are transmission lines. Each gas utility reports to the Board annually all the transmission pipelines owned and operated by the utility. When the assessors disagree with the utilities' statements, the Board is obliged to hear the parties and give a ruling. This method of determining transmission lines has proved

unsatisfactory to the assessors and to the utilities since it involves formal hearings at some expense to the utilities and to the municipalities.

In several municipalities, appeals have been placed before The Ontario Energy Board to determine whether or not specific sections of line are transmission lines. The first of such appeals was heard by the Board in January, 1959, and no decisions have yet been handed down.

In other municipalities, the assessors have ignored The Energy Board's designations and have refused to follow subsection 4 of section 41 to obtain a ruling of The Energy Board on such disputes.

Courts of Revision have refused to rule on such cases when brought before them by the company on the grounds that the question is out of their jurisdiction. It is obvious that The Energy Board and the Courts of Revision find it difficult, if not impossible, to make the necessary decisions on these questions.

This situation can be completely eliminated by amending The Assessment Act to provide for the assessment of transmission and distribution pipelines (the similarities of which have been set forth above) at the same rates. Uniform assessment rates for both types of pipeline would relieve The Ontario Energy Board of its responsibility under subsection 2 of section 41 and at the same time would relieve the municipalities and the gas utilities of the costly and time-consuming appeals to the various courts.

At the present time, the companies concerned have 101 appeals in process, based on the interpretation of the term "actual value". These same companies also have appeals from previous years which as yet have not been decided by the various courts.

There are now:

- 20 appeals pending before the Courts of Revision,
- 74 appeals pending before the County Judge,
- 7 appeals pending before the Ontario Municipal Board.

Appeals heard by a County Judge in January, 1961, still remain undecided. Other appeals back as far as 1957 are still being held by a County Judge pending decisions elsewhere. It is therefore obvious that these courts have real difficulty in finding a fair assessment value for distribution systems.

The Association of Assessing Officers of Ontario appointed a Research Committee to arrive at and recommend a schedule of assessment values for distribution systems. Its first findings were presented to the Association in 1959. These figures have been used in several municipalities in 1960 and 1961 and upon appeal before Courts of Revision and County Judges, members of the Research Committee have been unable to present evidence to substantiate the rates used.

The apparent failure of the expert members of the Research Committee to arrive at a sound and equitable schedule of assessments for pipelines again clearly indicates the difficulties facing the municipalities, the companies, and the courts.

In several of the municipalities, particularly in Southern Ontario, where gas has been distributed for many years, the distribution systems include cast iron pipelines, some of which were laid about a century ago. All modern distribution systems in Ontario are now constructed with steel pipelines using welded joints, since this type of system can carry a greater quantity of gas at higher pressures than the cast iron systems and can better fill the needs of present day customers.

The Ontario Municipal Board, in the case of The Consumers' Gas Company of Toronto against the Assessment Commissioner for the Municipality of Metropolitan Toronto and the Corporation of the Village of Long Branch, found that the present value of the cast iron pipes should be determined on a basis of comparison with the present adjusted value of steel pipes that would perform all equal service. The Board ruled that, for example, cast iron pipes 4" in diameter shall be valued at the rate used to assess 2" diameter steel pipes. A copy of the Board's decision is attached as Schedule H.

RECOMMENDATIONS

This Association respectfully submits

- (a) That a total re-assessment of all property based on a Manual of Assessment Values published by the Department of Municipal Affairs, be undertaken and completed in every municipality and school district within the Province of Ontario in order to alleviate inequities illustrated in this brief.
- (b) That until a re-assessment as in (a) becomes an accomplished fact, statutory pipeline assessment rates in each municipality be adjusted to conform to the level of assessment in that municipality as presently determined by the Department of Municipal Affairs for the purposes of Provincial grants.
- (c) That the rates in section 41 be lowered to set a more reasonable assessment rate for an industry which requires little or no municipal expenditure and substantially contributes to the location or placement of other taxable industries. Pipelines in other provinces are subject to more reasonable rates as illustrated in Schedule D.
- (d) That all transmission and distribution pipelines throughout the Province of Ontario be assessed at uniform statutory rates, to provide uniform assessment of pipelines which are substantially the same, to reduce the number of assessment appeals and to relieve the Ontario Energy Board of its responsibility to designate gas transmission lines.
- (e) That The Assessment Act be amended to incorporate the principles established by the Ontario Municipal Board in the case of The Consumers' Gas Company vs. the Village of Long Branch (see Schedule H) which determined a means of providing for adjusting the assessment of cast iron pipe.
- (f) That the method of assessment recommended by this Association, if adopted, remain unchanged for at least three years to provide stability of taxation and assessment during the extensive development of the gas industry in the Province of Ontario.

GENERAL OBSERVATIONS

It is a well established fact that the assessment and taxation of companies supplying a source of energy, such as gas or oil, have a very direct effect on industrial development within any given area. Gas and oil being a major source of energy for industrial purposes, it is essential that this life blood of our industrial existence be made available at the lowest possible price to promote the expansion of industry in the areas of Ontario which are presently less favoured.

Assessment and taxation of pipelines also have a direct bearing on the welfare of existing industry. Low cost energy means that industries presently located in the Province of Ontario will be better able to maintain their position in markets which are presently subject to intense competition from other countries with a lower production cost.

The assessment and taxation of companies supplying energy in the form of oil or gas have a direct effect on the standard of living of the ordinary householder in this province.

Dominion Bureau of Statistics returns show that expenses for fuel are major items for the lower income groups. Their statement for the year 1957, which is the latest available, is as follows:

<u>Income Range</u>	<u>No. of families</u>	<u>Percentage spent on Fuel and Power</u>	
		<u>Of average income</u>	<u>Of total expenditures</u>
\$2,500 - \$2,999	58	5.7	4.9
3,000 - 3,499	110	5.0	4.8
3,500 - 3,999	149	4.6	4.2
4,000 - 4,499	197	4.5	4.3
4,500 - 4,999	157	4.0	4.0
5,000 - 5,499	135	3.6	3.5
5,500 - 5,999	115	3.4	3.4
6,000 - 6,499	77	3.0	3.1
6,500 - 7,000	90	2.9	2.9

Any increase in fuel costs, caused by increased taxation on the pipeline company, can create a direct hardship on all income groups but more particularly on the already hard-pressed lower wage groups.

The nature of the utility industry requires utility companies to hold about 80% of their total assets in plant which is taxable for municipal purposes. This compares with manufacturing companies where in most cases, only about 20% of their total assets are subject to municipal taxation. Any increase in assessment of utility plant is therefore of major concern to the companies involved.

All gas distribution companies are faced with the necessity of installing pipelines which are capable of carrying sufficient fuel to satisfy the demands of consumers during specific maximum load periods. They must have sufficient capacity in their pipelines to supply enough fuel to heat all the customers' premises on the coldest winter day. This same capacity will probably not be used for the remainder of the year. About 60% of a present day distribution system capacity is unused for a large part of the year although it is, at the present time, subject to full municipal taxation.

Lower fuel costs assist industrial expansion at home and the retention of foreign markets thereby making possible a higher standard of living for the people of this province.

Should you wish to have further information regarding any of the matters discussed in this submission, would you kindly notify the Secretary who will arrange to have representatives of the Association wait upon you any time at your convenience.

All of which is respectfully submitted.

THE GAS AND PETROLEUM ASSOCIATION OF ONTARIO

J. W. Ostler
President

SCHEDULE A

TOTAL ONTARIO ASSESSMENT AND TAXES

PIPELINES ONLY

FOR YEAR

1960 ASSESSMENTS - 1961 TAXES

<u>COMPANY</u>	<u>ASSESSMENT</u>	<u>TAXES</u>	<u>TOTAL ASSESSMENT</u>	<u>TOTAL TAXES</u>
Interprovincial Pipe Line Co.	\$	\$	\$ 2,628,222	\$ 143,610
Sun Canadian Pipe Lines			1,301,192	76,351
Sarnia Products Pipe Line			2,531,482	139,837
The Consumers' Gas Company	10,755,693	695,602		
Ottawa Gas	1,795,246	97,507		
Provincial Gas Company Limited	2,948,980	169,515	15,499,919	962,624
Northern Ontario Natural Gas Company Limited			2,962,613	192,092
Trans-Canada Pipe Lines Limited			36,089,180	1,270,800
Union Gas Company of Canada, Ltd.				
Union	12,160,116	786,030		
Ontario	4,645,091	253,014		
United	<u>1,816,830</u>	<u>112,646</u>	<u>18,622,037</u>	<u>1,151,691</u>
			<u>\$79,634,645</u>	<u>\$3,937,005</u>

SCHEDULE B

41. - (1) In this section,

- (a) "gas" means gas as defined in The Energy Act;
- (b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;
- (c) "pipeline" means a pipeline for the transportation or transmission of gas that is designated by the Ontario Energy Board as a transmission pipeline and a pipeline for the transportation or transmission of oil, and includes,
 - (i) all valves, regulators, couplings, cathodic protection apparatus, protective coatings, casing, curb-boxes, meters, and all incidental fastenings, attachments, appliances, apparatus and appurtenances,
 - (ii) all haulage, labour, engineering and overheads in respect of such pipeline,
 - (iii) any section, part or branch of any pipeline,
 - (iv) any easement or right-of-way used by a pipeline company, and
 - (v) any franchise or franchise right,but does not include a pipeline or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipeline terminal;
- (d) "pipeline company" means every person, firm, partnership, association or corporation owning or operating a pipeline all or any part of which is situate in Ontario.

(2) The Ontario Energy Board shall designate as transmission pipelines all gas pipelines in Ontario that in its opinion are transmission pipelines. 1957, c.2, s.7, part.

(3) On or before the 1st day of March in each year the Board shall notify the clerk or the assessment commissioner of each local municipality of the length and diameter of all transmission pipelines located in the municipality. 1957, c.2, s.7, part, amended.

(4) All disputes as to whether or not a gas pipeline is a transmission pipeline shall, on the application of any interested party, be decided by the Ontario Energy Board and its decision is final.

(5) Notwithstanding any other provisions of this Act, but subject to sub-section 6, a pipeline shall be assessed for taxation purposes at the following rates:

<u>Size of Pipe</u>		<u>Assessment per Foot of Length</u>
3/4"	Nominal inside diameter	\$.07
1"	" " "	.09
1-1/4"	" " "	.11
1-1/2"	" " "	.13
2" and 2-1/2"	" " "	.17
3"	" " "	.46
4" and 4-1/2"	" " "	.55
5" and 5-5/8"	" " "	.83
6" and 6-5/8"	" " "	.98
8"	" " "	1.24
10"	" " "	1.55
12"	" " "	2.31
14"	Outside diameter	2.34
16"	" "	2.35
18"	" "	2.67
20"	" "	2.96
22"	" "	3.25
24"	" "	3.56
26"	" "	3.69
28"	" "	3.85
30"	" "	4.03
32"	" "	4.24
34"	" "	4.46
36"	" "	4.72

(6) A pipeline installed prior to 1940 shall be assessed for taxation at the rates set forth in sub-section 5 but shall be depreciated up to the year 1940 at the rate of 2 per cent per annum of the assessed value of the pipeline, with a maximum depreciation of 50 per cent.

(7) A pipeline installed in 1940 or in any subsequent year shall be assessed for taxation at the rates set forth in sub-section 5 with no allowance for depreciation.

(8) A pipeline removed from one location and re-installed in another location shall, where depreciation is applicable, continue to be depreciated at the foregoing rates as though remaining in its original location.

(9) A pipeline that has been abandoned in any year ceases to be liable for assessment effective with the assessment next following the date of abandonment.

(10) Where a pipeline is located on, in, under, along or across any highway or any lands exempt from taxation under this or any special or general Act, the pipeline is nevertheless liable to assessment and taxation in accordance with this section.

(11) Notwithstanding the other provisions of this Act or any other special or general Act, a pipeline liable for assessment and taxation under this section is not liable for assessment and taxation in any other manner for municipal purposes, including

local improvements, property and business taxes; but all other land and buildings of the pipeline company liable for assessment and taxation under this or any other special or general Act continue to be so liable.

(12) Where a pipeline extends through two or more municipalities, only the portion or portions thereof in each municipality are liable for assessment and taxation in that municipality.

(13) Where a pipeline is placed on a boundary between two municipalities or so near thereto as to be in some places on one side and in other places on the other side of the boundary line or on or in a road that lies between two municipalities, although it may deviate so as in some places to be wholly or partly within either of them, such pipeline shall be assessed in each municipality for one half of the amount assessable against it under this section.

(14) The assessment of a pipeline under this section shall be deemed to be real property assessment and the taxes payable by a pipeline company on the assessment of a pipeline under this section are a lien on all the lands of such company in the municipality.

(15) The rates set out in sub-section 5 shall be reviewed by the Minister in the year 1961 and every third year thereafter and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in sub-section 5.

42. - Except as provided by sub-section 14 of section 10, where any structure, pipe, pole, wire or other property is erected or placed upon, in, over, under or affixed to any highway forming the boundary line between two local municipalities, or so that such structure, pipe, pole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either.

SCHEDULE C

Assessment - Other than Pipelines 1961	Pipeline Company Assessment 1961	Total Assessment 1961	Pipeline Company Tax 1961	Municipal Levy 1961	Mill Rate 1959	Mill Rate 1961	Pipeline Company Percentage Of Total Levy
Example A	30,400	173,033	4,706.89	5,710.09	14	33	82.431
Example B	190,981	320,354	9,979.56	22,745.17	66	71	43.876
Example C	5,400	176,300	2,563.74	2,644.74	35	15	96.937
Example D	291,087	479,840	13,920.53	35,988.00	78.5	75	38.681
Example E	2,173,035	2,462,757	21,905.31	190,155.72	73	76	11.520
Example F	308,024	428,875	12,447.55	49,059.15	82.4	103 ^{Cashman} 200 ^{to 200,000} -18 and 100	25.373
Example G	57,789	155,839	3,669.99	5,927.00	27	38	61.92
Example H	348,795	462,360	16,353.36	63,214.36	165	144	25.870

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SCHEDULE D

STATUTORY ASSESSMENT OF PIPELINES IN CANADA

BY PROVINCES

See pages 6 and 7 of this brief for further information which will help in the interpretation of this schedule.

Size of Pipe	<u>BRITISH COLUMBIA</u>		<u>ALBERTA</u>		<u>SASKATCHEWAN</u>		<u>MANITOBA</u>		<u>ONTARIO</u>	
	Per Ft.	Per Mile	Per Ft.	Per Mile	Per Ft.	Per Mile	Per Ft.	Per Mile	Per Ft.	Per Mile
1"	\$.57	3,000	\$.16	845	\$.19	1,000	\$.19	1,000	\$.09	475
2"	.57	3,000	.20	1,056	.19	1,000	.19	1,000	.17	898
3"	.91	4,800	.30	1,584	.24	1,260	.27	1,400	.46	2,429
4"	1.93	10,200	.40	2,112	.29	1,520	.34	1,800	.55	2,904
5"	1.93	10,200	.50	2,640	.34	1,780	.34	1,800	.83	4,382
6"	2.73	14,400	.61	3,221	.39	2,040	.42	2,200	.98	5,174
7"	2.73	14,400	.71	3,749	.44	2,300	.42	2,200	.98	5,174
8"	3.58	18,900	.82	4,330	.48	2,560	.49	2,600	1.24	6,547
9"	3.58	18,900			.55	2,880	.49	2,600	1.24	6,547
10"	4.39	23,200	1.11	5,860	.61	3,200	.53	2,800	1.55	8,184
11"	4.39	23,200			.67	3,520	.53	2,800	1.55	8,184
12"	5.08	26,800	1.37	7,233	.73	3,840	.57	3,000	2.31	12,197
13"	5.08	26,800	1.47	7,761	.79	4,160	.57	3,000	2.31	12,197
14"	5.74	30,300	1.57	8,290	.85	4,480	.61	3,200	2.34	12,355
15"	5.74	30,300			.91	4,800	.61	3,200	2.34	12,355
16"	6.42	33,900	1.64	8,659	.97	5,120	.64	3,400	2.35	12,408
17"	6.42	33,900			1.03	5,440	.64	3,400	2.35	12,408
18"	7.16	37,800	2.02	10,666	1.09	5,760	.72	3,800	2.67	14,098
19"	7.16	37,800			1.15	6,080	.72	3,800	2.67	14,098
20"	7.97	42,100	2.38	12,566	1.21	6,400	.80	4,200	2.96	15,629
21"	7.97	42,100			1.27	6,720	.80	4,200	2.96	15,629
22"	8.86	46,800			1.33	7,040	.87	4,600	3.25	17,160
23"	8.86	46,800			1.39	7,360	.87	4,600	3.25	17,160
24"	9.75	51,500	3.14	16,579	1.45	7,680	.95	5,000	3.56	18,797
25"	9.75	51,500			1.52	8,000	.95	5,000	3.56	18,797
26"	10.66	56,300	3.27	17,266	1.58	8,320	1.02	5,400	3.69	19,483
27"	10.66	56,300			1.64	8,640	1.02	5,400	3.69	19,483
28"	11.55	61,000			1.70	8,960	1.10	5,800	3.85	20,328
29"	11.55	61,000			1.76	9,280	1.10	5,800	3.85	20,328
30"	12.20	64,400	3.94	20,803	1.82	9,600	1.17	6,200	4.03	21,278
31"	12.20	64,400			1.88	9,920	1.17	6,200	4.03	21,278
32"	13.03	68,800	4.48	23,654	1.94	10,240	1.25	6,600	4.24	22,387
33"	13.03	68,800			2.00	10,560	1.25	6,600	4.24	22,387
34"	13.84	73,100	5.02	26,506	2.06	10,880	1.33	7,000	4.46	23,549
35"	13.84	73,100			2.12	11,200	1.33	7,000	4.46	23,549
36"	14.66	77,400			2.18	11,520	1.40	7,400	4.72	24,922

SCHEDULE E

40. - (1) The property by sub-clause v of clause i of section 1 declared to be "land" that is owned by companies or persons supplying water, heat, light and power to municipalities and the inhabitants thereof, and companies and persons operating transportation systems and companies or persons distributing by pipeline natural gas, manufactured gas or liquefied petroleum gas or any mixture of any of them shall, in a municipality divided into wards, be assessed in the ward in which the head office of the company or person is situate, if the head office is situated in the municipality, but, if the head office of the company or person is not in the municipality, then the assessment may be in any ward thereof.

(2) This section does not apply to a pipeline as defined in section 41. 1957, c.2, s.6 (1).

(3) Where the property of any such company or person extends through two or more municipalities, the portion thereof in each municipality shall be separately assessed therein at its value as an integral part of the whole property. R.S.O. 1950, c.24, s.37 (2).

(4) In assessing such property, whether situate or not situate upon a highway, street, road, lane or other public place, it shall when and so long as in actual use be assessed at its actual value in accordance with section 35. R.S.O. 1950, c.24, s.37 (3); 1957, c.2, s.6 (2).

(5) Notwithstanding any other provision of this Act, the structures, sub-structures, superstructures, rails, ties, poles and wires of such a transportation system are liable to assessment and taxation in the same manner and to the same extent as those of a steam railway are under section 46 and not otherwise. R.S.O. 1950, c.24, s.37 (4).

SCHEDULE F

Comparison of distribution line assessments in adjoining municipalities

	<u>Rate of Assessment</u>		<u>Rate of Assessment</u>
1.	<u>Township A</u>	adjoining	<u>Township B</u>
2"	\$.17		\$.28
4"	.55		.75
6"	.98		1.10
8"	1.24		1.40
2.	<u>Town C</u>	adjoining	<u>Township D</u>
2"	\$.28		\$.17
4"	.70		.55
6"	1.15		.98
8"	1.55		1.24
3.	<u>Township E</u>	adjoining	<u>Township F</u>
2"	\$.507		\$.17
4"	.843		.55
6"	1.181		.98
8"	1.493		1.24
4.	<u>Town G</u>	adjoining	<u>Township H</u>
2"	\$.60		\$.28
4"	1.24		.75
6"	1.87		.98
5.	<u>Township I</u>	adjoining	<u>Township J</u>
2"	\$.28		\$.17
4"	.75		.55
6"	1.15		.98
8"	1.55		1.24

SCHEDULE G

Level of Assessment %
of 1940 values as
found by Department
of Municipal Affairs

Pipelines assessed at 100%
of values established by
the Province of Ontario
Section 41 of the Assess-
ment Act *etc.*

Village A	62.728	100
Town B	78.033	100
Town C	72.864	100
City D	87.779	100
Town E	61.62	100
Town F	63.629	100
Town G	53.381	100
Village H	66.973	100
Town I	67.130	100
Town J	77.212	100
Town K	76.698	100
Town L	64.217	100
City M	66.110	100
Village N	71.584	100

COAT OF ARMS

THE ONTARIO MUNICIPAL BOARD

IN THE MATTER OF Section 80 of The
Assessment Act, R.S.O. 1950, Chapter 24,
as amended,

AND IN THE MATTER OF an appeal from the
decision of His Honour Judge Ambrose Shea,
Judge of the County Court, dated the 18th
day of November, 1957, with respect to
the assessment of gas mains referred to
as Roll number 4301 of the Village of
Long Branch.

BETWEEN:

THE CONSUMERS' GAS COMPANY OF TORONTO,

Appellant,

-and-

THE ASSESSMENT COMMISSIONER FOR THE
MUNICIPALITY OF METROPOLITAN TORONTO
AND THE CORPORATION OF THE VILLAGE OF
LONG BRANCH,

Respondents.

COUNSEL:

H. E. MANNING, Q.C., - for The Consumers'
Gas Company,

GEORGE MACE, - for Metropolitan
Toronto and Long
Branch

DECISION OF THE BOARD

This is an appeal by The Consumers' Gas Company of Toronto from the decision of a Judge of the County Court of the County of York with respect to the assessment of gas mains of the appellant in the Village of Long Branch, made in the year 1957 for taxation in the year 1958. It appears from the Roll as revised that the mains in question were assessed originally at the sum of \$58,600.00 and this amount was

reduced by the Court of Revision to \$54,034.00. This latter figure was confirmed by the County Judge.

A substantial part of the mains in question have been designated as transmission pipelines within the meaning of section 37a of The Assessment Act and in respect of these there is no appeal. The appeal extends only to the following distribution mains which do not come under the provisions of section 37a of the Act:

CAST IRON

2" and 2-1/2"	561'
3"	700'
4"	37,053'
6"	16,846'

STEEL

2" and 2-1/2"	1,249'
6"	308'

As will appear later there is very little question about the proper assessment for the steel mains, so the appeal centres around a proper assessment for the cast iron distribution mains. According to information supplied to the Board from the records of the appellant, of the 4 inch and 6 inch cast iron mains amounting in all to 53,899 feet, 24,271 feet was installed prior to 1934, 26,922 feet during the years 1934 to 1940 and 2,706 feet since 1940. According to a tabulation of adjusted cost at 1940 for rolled steel mains as established by the office of the Metropolitan Assessment Commissioner and which was not questioned at the hearing of this appeal, the cost of 2 inch mains is established at \$0.2738 per foot and for a 3 inch main at \$0.4578. Evidence given by well qualified witnesses established that a 2 inch steel pipe would do the work of any cast iron pipe up to 4 inches in diameter and that a 3 inch steel pipe would do the work of any cast iron pipe up to 6 inches in diameter. This evidence was not seriously questioned.

The Board finds accordingly that the present value of the cast iron pipes in question should be determined on a basis of comparison with the present adjusted cost of steel pipes that would perform equal service. Therefore, the footage of cast iron mains of 2 inches, 2-1/2 inches, 3 inches and 4 inches, making a total footage in this case of 38,314 feet should be valued subject to depreciation at \$0.2738 per foot and the 6 inch cast iron mains at the value of 3 inch steel pipe or a rate of \$0.4578 per foot.

On the question of depreciation it should be noted that many of the mains in question were installed prior to the year 1934 and a great many more after that time and prior to the year 1940. The Board is of the opinion that if the substituted value of steel mains is used on a basis of assessment, then the same consideration should not apply with respect to depreciation as would be used if the cost of cast iron mains were used as the basis of assessment. George Carpenter, an engineer, called to give opinion evidence on behalf of the appellant, stated that he had experience of steel pipe in the ground and still in use after fifty years. He said the useful life of steel will depend almost entirely on the protection given to it at the time of installation. A depreciation allowance of about 15% was suggested on behalf of the Metropolitan Assessment Commissioner. The Board finds that this would be a reasonable allowance in this case, to be deducted from the 2 inch and 3 inch steel pipe values adopted. In the result 38,314 feet of cast iron pipe covering the 2 to 4 inch dimensions should be assessed at \$0.2738 per foot less 15% depreciation and 16,846 feet of 6 inch cast iron pipe at \$0.4578 per foot less 15% depreciation. Any steel distribution pipe will be assessed at the several rates applicable established in respect of it as shown in Exhibit 2, less an allowance of 15% for depreciation. The appeal will be allowed to that extent and the assessment reduced accordingly.

The Metropolitan Assessment Commissioner will pay to the Board the cost of reporting the appeal. There will be no other order as to costs.

DATED at Toronto this 6th day of August, 1958.

"J. A. Kennedy"
VICE-CHAIRMAN
"W. Greenwood"
MEMBER

The Metropolitan Assessment Commissioner will pay to the Board the cost of reporting the appeal. There will be no other order as to costs.

DATED at Toronto this 6th day of August, 1958.

"J. A. Kennedy"
VICE-CHAIRMAN
"W. Greenwood"
MEMBER

SUBMISSION TO:

SELECT COMMITTEE, as established

by

THE LEGISLATIVE ASSEMBLY OF ONTARIO

on

THE MUNICIPAL ACT and RELATED ACTS

by

Norman C. Goodhead,
Reeve, Township of North York,
5000 Yonge Street,
Willowdale, Ontario.

Whereas Municipal Financial Audits are mandatory in the Province of Ontario.

Whereas Municipalities must operate under the Municipal Act, Planning Act and all other related Acts.

Whereas present legislation does not provide ways and means for a Municipality to receive an annual departmental clearance of its operation as such operation pertains to the Statutes.

Whereas deviation from Statutory requirements can continue unchecked indefinitely.

Whereas new Members of Council have little knowledge of the Statutory operations of previous councils.


Whereas no annual Statutory audit reports of a Municipality's total operation is mandatory.

Therefore it is suggested:

That an annual statutory audit, to provide a complete review of a Municipality's operation, including decisions of Council, Planning Board and Committee of Adjustment, as well as general administration procedures in keeping with the statutes, including a report on the practical application of the statutes as they apply to the particular Municipalities, as well as recommendations for amending Legislation, if considered applicable, be mandatory for all municipalities in the Province of Ontario. Such reports to

Representations are being submitted to your Committee by various bodies dealing with the licensing of builders and contractors, and I do not intend to go into this subject, but I urge your Committee to consider this subject matter and recommend the legislative changes necessary to give effect thereto.

DATED at the Township of North York, this 15th day of September, A.D. 1961.



NORMAN C. GOODHEAD
Reeve of the
Township of North
York

22

THE GRAND ORANGE LODGE OF ONTARIO WEST

Office of the Grand Secretary
64 Runnymede Road
Toronto 3, Ontario

September 6th. 1962

Hon. Fred Cass,
Minister of Ontario Municipal Affairs,
Parliament Bldg.,
Toronto 5, Ont.

Dear Sir:-

At the Annual Convention of the Grand Orange Lodge of Ontario West Held in Port Arthur the following resolution was adopted and I was instructed to forward same to the Government of Ontario for action,

As this resolution deals with a change in the Assessment Act I am forwarding same to your department.

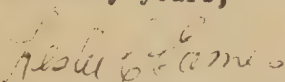
That this Grand Orange Lodge of Ontario West request the Provincial Government of Ontario to amend Section No. 23 and 24 of the assessment Act to read as follows.

"23. The Assesor shall be guided by the index book required by section 63 of the Separate School Act in ascertaining who have given the notices which are by law necessary in order to entitle supporters of Roman Catholic Separate Schools to exemption from the Public School tax.

24. Where the entry in the index book mentioned in Section 23 does not show a ratepayer to be a supporter of Separate Schools, the Assesor shall place the name of such persons in the proper column of the Assessment Roll for Public School purposes."

Trusting that you will give the above your attention, so that equal rights to all can prevail.

Sincerely yours,


Leslie C. Eames,
Grand Secretary.

C.C. The Hon. John P. Roberts, C.C. Prime Minister and Minister of Education.
Mrs. H.G. Rowan, C.A. Secretary Select Committee Municipal Act and Related Act.

l.e./l.c.e.

9/13/20

SUGGESTED AMENDMENTS TO THE ONTARIO ASSESSMENT ACT,
THE MUNICIPALITY OF METROPOLITAN TORONTO ACT, AND
THE MUNICIPAL FRANCHISE EXTENSION ACT.

1. That the provisions of the Municipality of Metropolitan Toronto Act relating to assessment be amended to remove the divided authority which now exists./

The sole responsibility for the Assessment Commissioner, Assessors and staff, the making of the assessment, the preparation of the assessment rolls, the revision of the rolls by the Court of Revision and the appointment of the Clerk of such Courts should be the Metropolitan Council, so that only when such rolls have been revised by the Court of Revision will the said rolls be delivered to the Clerk of the area municipality for its purposes, mainly preparation of the Voters' List and the levying/ and collecting of taxes.

If this procedure were adopted in Metropolitan Toronto it would enable the Clerk of the Municipality of Metropolitan Toronto to be in charge of the Clerk's work for the Court of Revision thus enabling the Departments such as the Clerk's, Assessment and Court of Revision to work closer together, all of which would provide an earlier completion and delivery of the assessment rolls and a return of the revised information contained therein required when reporting the assessment upon which the metropolitan levy shall be based and apportioned.

2. That consideration be given to the insertion of a new section in the Municipality of Metropolitan Toronto Act



relieving the Assessor of the function and responsibility of obtaining and providing information required by Area Clerks in the preparation of the Municipal Voters' List, and that such function and responsibility be transferred to the Departments of the Area Clerks or such other Department as may be deemed advisable.

This amendment would enable the establishing of some system such as registration or a special type of enumeration which would provide a more current list of persons entitled to vote at municipal elections than that which can be obtained by the Assessor, due to the necessity of a progressive returning of assessment rolls, the visits to obtain information for same which commence on January 2nd of each year.

3. That permissive Legislation be obtained to enable Metropolitan Council by by-law to require that assessed valuations shall be made either every two or four years instead of annually.

This change, if approved, will provide assessors with more time to review and investigate matters effecting or affecting value prior to changing the assessed values then in effect and in addition give to the taxpayer a fixed period during which no changes in value can take place.

This change would not prohibit the adding to the said roll any supplementary assessment made pursuant to Sections 53 and 54 of the Assessment Act.

Railway lands are assessed only every five years. Surely then it is reasonable to suggest a uniform and longer

period for all properties.

Montreal and other jurisdictions in the U. S. A. make the assessment every four years.

4. To provide that where persons or institutions own and occupy properties for their own purposes and are exempt, such properties shall become liable to taxation when not occupied and used for their purposes and rented to another person or institution, except in such cases where the person or institution is entitled, by statute to enjoy a similar exemption.

5. To provide that the University of Toronto shall be assessed pursuant to the provisions of Paragraph 4 of Section 4 of the Ontario Assessment Act or failing such to have the Act governing the University amended so as to enable the Assessor to assess as taxable the value of the buildings, and/or land belonging to the University when occupied by a tenant or lessee on the same basis as all other owners, tenants or lessees.

The provisions of the University of Toronto Act enable the Assessor to assess as taxable only the interest of the tenant or lessee which by a previous court decision requires the Assessor to reduce the assessed value each year having regard for the declining interest of the tenants or lessees. In such cases the University makes a payment in lieu to the City.

6. Paragraph 9 of Section 4 of the Assessment Act should be amended to remove doubts re the assessing as taxable the

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unoccupied property of any public commission or local board as defined by the Department of Municipal Affairs Act.

The said paragraph 9 should also be amended to make clear, if intended, that the words vested in or controlled by mean 'owned'.

Prior to recent amendments to the said paragraph 9 of Section 4, buildings and land unoccupied by a school board were taxable. By reason of the recent amendments, school boards and commissions are now asking for an exemption of all unoccupied lands and in certain cases commissions are claiming an exemption for occupied land and buildings where business is carried on by such commission or Board.

7. That Section 17 of the Assessment Act be amended to enable the Assessment Commissioner or the Assessor to forward an assessment questionnaire, prior to the making of an assessment, to each owner or occupant of land setting out the necessary information required according to the provisions of the said Section for the purpose of making the assessment.

The present provisions of Section 17 require the Assessment Commissioner or the Assessor to make two visits to the property prior to the delivery of the assessment questionnaire seeking the information. If the Assessor could forward the return prior to a visit, the owner and/or occupant in such cases, particularly where they are of foreign extraction, could have such questionnaire interpreted by someone of their choice and thereby be in a position to give the Assessor the information when he makes his first visit to the property, or such questionnaire could be forwarded to the Department in the event

1. The first part of the report deals with the general situation of the country and the progress of the work during the year.

2. The second part of the report deals with the results of the work during the year.

3. The third part of the report deals with the financial statement of the year.

4. The fourth part of the report deals with the general remarks and conclusions.

5. The fifth part of the report deals with the general remarks and conclusions.

6. The sixth part of the report deals with the general remarks and conclusions.

7. The seventh part of the report deals with the general remarks and conclusions.

8. The eighth part of the report deals with the general remarks and conclusions.

9. The ninth part of the report deals with the general remarks and conclusions.

10. The tenth part of the report deals with the general remarks and conclusions.

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13. The thirteenth part of the report deals with the general remarks and conclusions.

14. The fourteenth part of the report deals with the general remarks and conclusions.

15. The fifteenth part of the report deals with the general remarks and conclusions.

the owner and/or occupant found it inconvenient to be available at the time of the Assessors visit to the property.

The suggested change would assist in obtaining a more accurate count of the population.

8. Section 21 should be amended to provide that the Minister of Municipal Affairs shall by regulation govern the conduct of the Assessor in any class or classes of municipality in the following matters.

- (a) By fixing the base year and period therefor which shall be used by the Assessor when giving consideration to property sales, rentals and building costs in the act of determining value for assessment purposes.
- (b) Establish for the use of the Assessor, depreciation tables for each class of construction.
- (c) Establish for each class and type of property the capitalization rate tables to be applied by the Assessor to rental values when ascertaining the economic value of a property.

The Minister, by prescribing regulations governing the conduct of the Assessor in the above matters, will attain greater uniformity in assessment of municipalities similar in type, and in addition provide the taxpayer with official information as to the mandatory base year that the Assessor must follow and use in the various considerations which he as the Assessor is required to give by law when determining value. Likewise, where entitled,



the rates of depreciation that should be applied to each class of construction and the capitalization rate or factor which shall be applied by the Assessor to rentals in determining the economic value of a property.

9A. Section 35 of the Assessment Act be amended to remove the requirements by the Assessor to divide the total assessed valuation between land and buildings.

Taxes are levied and paid on the total assessment and not separately on land and buildings. The present requirement requiring a division, entails a great deal of work and the only gain that can be found by such separation is that the division made facilitates tax adjustments for vacancy or demolitions.

Any separation and adjusted valuation required for this purpose could be made by the Assessor at the time applications are made for rebates, refunds or cancellations of taxes.

9B. Section 35 should be further amended to provide that where two or more families reside and use what was intended to be a single family residence only, the Assessor when valuing the property may value the same exclusively on rental value based on the additional occupancy and not be restricted or limited to a value based upon the following considerations -- cost of replacement value, sales value and a rental value based on single occupancy.

Where two or more families occupy a single family residence, increased revenue is obtained by the owner or landlord

1. The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present and for the development of a sound policy for the future.

2. The second part of the paper discusses the role of the government in the development of the United States. It is argued that the government has played a crucial role in the development of the country, and that its actions have been guided by a set of principles that have been passed down from generation to generation.

3. The third part of the paper discusses the role of the individual in the development of the United States. It is argued that the individual has played a crucial role in the development of the country, and that his actions have been guided by a set of principles that have been passed down from generation to generation. The individual is seen as the driving force behind the development of the country, and his actions are seen as the key to the country's future.

4. The fourth part of the paper discusses the role of the future in the development of the United States. It is argued that the future is a time of great opportunity, and that the United States has the potential to become a great power in the world.

5. The fifth part of the paper discusses the role of the present in the development of the United States. It is argued that the present is a time of great challenge, and that the United States must rise to the challenge if it is to remain a great power in the world.

6. The sixth part of the paper discusses the role of the past in the development of the United States. It is argued that the past is a time of great wisdom, and that the United States must learn from the past if it is to avoid the mistakes of the past.

7. The seventh part of the paper discusses the role of the future in the development of the United States. It is argued that the future is a time of great opportunity, and that the United States has the potential to become a great power in the world.

8. The eighth part of the paper discusses the role of the present in the development of the United States. It is argued that the present is a time of great challenge, and that the United States must rise to the challenge if it is to remain a great power in the world.

and if such revenue were used in determining the economic value of the property a greater value would be attained for assessment purposes than that which can be when restricted or limited to either one or all of the three aforementioned considerations -- cost of replacement value, sales value and the rental value based on single occupancy.

Additional occupancy in many cases increases the cost of municipal services for education and welfare etc., and such occupancy can, in certain cases, reduce the value of surrounding property.

9C. To provide that where an area is designated as a re-development area that the Assessor shall, notwithstanding the provisions of Section 35, be entitled to value the lands situated in such area, if the lands are capable of being developed, in accordance with the said re-development conditions and permissible fixed uses set down in the re-development plan.

10. Clauses A and B of Sub-section 1 together with sub-sections 2 and 3 of Section 43 be amended to provide the authority to collect a payment in lieu of taxes from a public commission, trustee or other body operating a public utility or parking lot whether or not for or on behalf of a municipal corporation.

This amendment is necessary due to Public Commissions or Local Boards being exempt under Paragraph 9 of Section 4 of the Assessment Act and the fact that the present provisions of

The first part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time. The second part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time. The third part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time. The fourth part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time. The fifth part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time. The sixth part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time. The seventh part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time. The eighth part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time. The ninth part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time. The tenth part of the paper discusses the importance of the study of the history of the English language. It is a branch of linguistics which deals with the changes in the language over time.

Section 43 only provide for a payment in lieu if the Public Commission or Local Board operates the utility or parking lot for or on behalf of the Municipal Corporation, or the parking facilities are on land owned by a municipal parking authority.

11A. Clause B of Section 53 be amended to provide the Assessor with authority to re-value any lands and/or buildings or portions thereof that have been assessed on the basis of a present and particular use, if such use is changed after the return of the Assessment roll.

The said Clause B and Section 53 at present enable a change to be made in the assessed value where farm lands, after the return of the assessment roll, cease to be used as such.

The said provisions should be enlarged to include also the authority to revalue, after the return of the assessment roll, any large block of land subsequently divided into a number of parcels and particularly so in such cases where the permitted use of the property is changed. Likewise the authority to revalue where buildings or land assessed as Residential, namely single family residences, and the permitted use is changed to that of Industrial or Commercial or where a change is made to permit the erection of apartments.

The suggested amendment would justify the Assessor delaying, when making the regular assessment under Section 35, any proposed change in value until an actual change in use is in effect.

11B. To provide that where the Assessor due to time factor cannot complete the making of a supplementary assessment, the Assessor can by agreement with the person to be assessed, delay making such supplementary assessment, but when made it shall be effective for the same period as it would have been had the delay not occurred.

11C. That Sections 53 and 54 of the Assessment Act be amended to remove the need for sending by registered mail, notices of assessment to tenants.

Tenants are continually complaining about having to go to the post office for a registered letter containing an assessment notice which could have been avoided if the mail had been unregistered.

12. Sub-section 2 of Section 72 be amended to provide that any notice of appeal postmarked not later than the last day fixed by by-law for the filing of appeals shall be accepted as having been filed within the required time limit.

Due to the general practice followed in many matters such as income tax, etc., where the postmark is accepted as date of filing, many taxpayers have treated assessment appeals in a similar manner just to find that the Courts interpret the Assessment Act as requiring that the appeal must be actually received in the office of the Assessment Commissioner and/or Clerk, as the case may be, within the date fixed in the by-law for filing appeals.

1. The first part of the report is a general introduction to the subject.

2. The second part is a detailed description of the

method used in the investigation, and the results obtained.

3. The third part is a discussion of the results, and a comparison with the results of other investigators.

4. The fourth part is a conclusion, and a summary of the results.

5. The fifth part is a list of references.

6. The sixth part is a list of figures, and a description of each figure.

7. The seventh part is a list of tables, and a description of each table.

8. The eighth part is a list of appendices, and a description of each appendix.

9. The ninth part is a list of footnotes, and a description of each footnote.

10. The tenth part is a list of errata, and a description of each erratum.

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12. The eleventh part is a list of references, and a description of each reference.

13. The twelfth part is a list of figures, and a description of each figure.

14. The thirteenth part is a list of tables, and a description of each table.

15. The fourteenth part is a list of appendices, and a description of each appendix.

16. The fifteenth part is a list of footnotes, and a description of each footnote.

17. The sixteenth part is a list of errata, and a description of each erratum.

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19. The seventeenth part is a list of references, and a description of each reference.

20. The eighteenth part is a list of figures, and a description of each figure.

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22. The nineteenth part is a list of references, and a description of each reference.

13. To provide an amendment to Section 131 of the Assessment Act by the insertion of a new clause enabling the Commissioner of the Court of Revision to grant tax relief by the reduction, rebate or cancellation of taxes to persons who are required to live on a fixed low income such as the old age pension and mothers allowance after a report justifying same has been filed by the Commissioner of Welfare.

14. That Clause C of Sub-Section 2 of Section 1 of the Municipal Franchise Extension Act be amended to remove the requirement that a person to be entitled to be entered on the resident Voters' List must have resided in the municipality for the last twelve months next preceeding the first day of January of the year in which the resident Voters' List is to be prepared, and inserting in lieu thereof at least in respect of any area municipality comprising the Municipality of Metropolitan Toronto the provisions more in keeping with that applicable to all municipal taxpayers entitled to vote at municipal elections.



Amended - 11/1/55

5. To provide that the University of Toronto, together with the other associated Federated Universities and that of federated colleges and affiliated colleges, who by special Statute enjoy a similar exemption, shall be assessed pursuant to the provisions of Paragraph 4 of Section 4 of the Ontario Assessment Act or failing such to have the Acts governing the Universities and respective colleges amended so as to enable the Assessor to assess as taxable the value of the buildings, and/or land belonging to such Universities and colleges when occupied by a tenant or lessee on the same basis as all other owners, tenants or lessees.

The provisions of the University of Toronto Act and the Act governing the Victoria University enable the Assessor to assess as taxable only the interest of the tenant or lessee which by a previous court decision requires the Assessor to reduce the assessed value each year having regard for the declining interest of the tenant or lessee. In such cases the University of Toronto by agreement dated June, 1955, makes a payment in lieu of taxes to the City which agreement terminates in the tax year 1965.

The principal thrust of the investigation will be directed towards the

study of the various factors which have influenced the development of the

historical and geographical situation, and the various factors which have

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Guelph Property Owners Association

MAILING ADDRESS

9 Quebec Street, Guelph, Ontario

SEPTEMBER 20, 1962.

TO THE SELECT COMMITTEE ON THE
MUNICIPAL ACT AND RELATED ACTS.

DEAR SIRs:

EXEMPTION FROM SCHOOL TAXES FOR SENIOR
PROPERTY-OWNERS

FEELING THAT HOME-OWNERS OVER 65 YEARS OF AGE,
WHO ARE AT THIS TIME ENTERING A PERIOD OF THEIR
LIVES WHEN THEIR INCOME IS DECLINING AND THEIR
RESOURCES DISINTEGRATING; AND WHO HAVE ALREADY
CONTRIBUTED TOWARD THE EDUCATION OF THE YOUNG,
IN ONE WAY OR ANOTHER, FOR 45 YEARS, SHOULD AT
THIS AGE BE RELIEVED OF THAT BURDEN;

AND BELIEVING THAT THE BEST WAY TO ACCOMPLISH
THIS CHANGE WOULD BE TO HAVE THE MUNICIPALITIES
IN WHICH THEY RESIDE GRANT DISCOUNTS OFF LOCAL
TAXES TO THE EXTENT OF AN AMOUNT APPROXIMATELY
EQUAL TO THE SCHOOL RATES FOR THE CURRENT YEAR,
NOW THEREFORE WE HUMBLy SUGGEST THAT THE ONTARIO
ASSESSMENT ACT BE REVISED TO INCORPORATE THE
ABOVE-MENTIONED PROPOSAL.

GUELPH PROPERTY OWNERS ASSOCIATION,

(SIGNED) W. E. FULLER, PRESIDENT.

(SIGNED) GEORGE THOMAS, SECRETARY.

Guelph Property Owners Association

MAILING ADDRESS

9 Quebec Street, Guelph, Ontario

SEPTEMBER 20th, 1962.

TO THE SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS.

DEAR SIRs: FULL COUNCIL MEETINGS TO BE OPEN MEETINGS

WITH REFERENCE TO CLAUSE ONE (1) OF SECTION 190 OF THE MUNICIPAL ACT, RSO 1960, OUR ASSOCIATION BELIEVES THAT BOTH REGULAR COUNCIL MEETINGS AND THOSE COUNCIL MEETINGS WHICH ARE COMMONLY CALLED JOINT OR COMMITTEE-OF-THE-WHOLE MEETINGS SHOULD BE OPEN TO THE PUBLIC.

WE BELIEVE THIS CHANGE TO BE HIGHLY DESIRABLE SINCE THE GALLERIES PROVIDE THE ONLY OPPORTUNITY FOR WOULD-BE ALDERMANIC CANDIDATES (OR APPRENTICES) TO BECOME ACQUAINTED AT FIRST HAND WITH CIVIC PROCEDURES. MUNICIPAL BUSINESS IS BIG BUSINESS AND CIVIC-MINDED CITIZENS WITH POLITICAL AMBITIONS SHOULD BE GIVEN OPPORTUNITY TO "LEARN THE BUSINESS".

JOINT OR COMMITTEE-OF-THE-WHOLE MEETINGS AFFORD INDIVIDUAL MEMBERS OF COUNCILS A CONVENIENT ESCAPE FROM PUBLIC SCRUTINY ON DEBATABLE ISSUES. A RAISED HAND IN REGULAR SESSION DOES NOT INDICATE DEPTH OF FEELING FOR OR AGAINST AN ISSUE.

WE FEEL THAT THE LIMITING PHRASE IN THE CLAUSE DEFEATS THE SECTION'S CHIEF REQUIREMENT THAT COUNCIL MEETINGS BE OPEN. THE FINELY-DRAWN DISTINCTION BETWEEN A REGULAR COUNCIL MEETING AND A MEETING OF A COMMITTEE-OF-THE-WHOLE SHOULD BE DROPPED. A COMMITTEE-OF-THE-WHOLE MEETING IS IN FACT, IF NOT IN NAME, A TRUE COUNCIL MEETING, AND, AS SUCH, SHOULD BE OPEN.

GUELPH PROPERTY OWNERS ASSOCIATION,
(SIGNED) W. E. FULLER, PRESIDENT.
(SIGNED) GEORGE THOMAS, SECRETARY.

Guelph Property Owners Association

MAILING ADDRESS

9 Quebec Street, Guelph, Ontario

SEPTEMBER 20, 1962.

TO THE SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS.

DEAR SIRs:

REBATES ON VACANCIES

WITH REFERENCE TO PHRASE (A) IN CLAUSE (1)
OF SECTION 131 OF THE ASSESSMENT ACT, RSO 1960
WHICH GRANTS PARTIAL RELIEF IN RESPECT OF A
BUILDING THAT WAS VACANT THREE MONTHS OR MORE
DURING THE YEAR,

WE BELIEVE THAT THE REBATE PROVISION IN
THIS SECTION RELIEVES TO SOME EXTENT THE HARD-
SHIPS IMPOSED ON MANY RENTAL INVESTORS BY THE
FIELD OPERATION OF THE NATIONAL HOUSING ACT
WHICH DEFLECTS THE NATURAL LAW OF SUPPLY AND
DEMAND BY CREATING TEMPORARY HOUSING SURPLUSES,

AND WE RECOMMEND ITS CONTINUANCE WITHOUT
CHANGE.

GUELPH PROPERTY OWNERS ASSOCIATION

(SIGNED) W. E. FULLER, PRESIDENT.

(SIGNED) GEORGE THOMAS, SECRETARY.

SUBMISSION

BY

G. D. HEPDITCH, B.A. (ECON), M.I.M.A., A.S.A., F.R.V.A.

ASSESSOR, COUNTY OF ONTARIO

TO

THE SELECT COMMITTEE

ON

THE MUNICIPAL ACT

AND

RELATED ACTS

WHITBY: JUNE 27, 1962

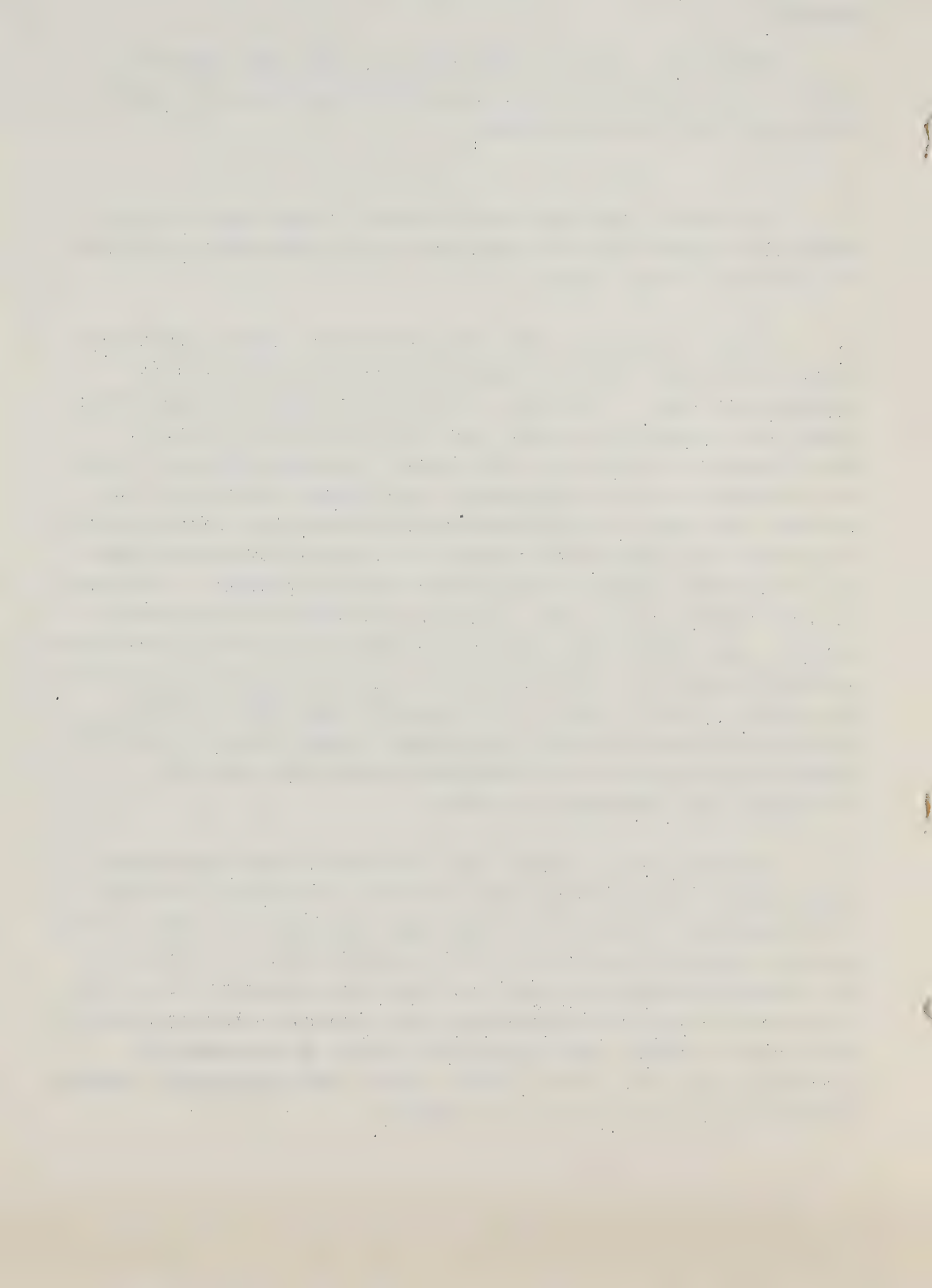
TO THE SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS

Gentlemen:

As a ratepayer and an interested person engaged in assessment practice, I would like to take an opportunity to present certain personal observations respecting assessment practice in general.

Therefore, I would respectfully ask that the Committee receive this submission in the hope that they will give consideration to the following points:

1. Assessment practices now in force, in the main, have not radically changed since the inception of the statutory direction to assess at 'actual value'.
2. I have no quarrel with this direction; it is a good and sound one having been well scrutinized by the courts and in economic doctrine. I believe, it is not difficult to administer except when ignored as it has been for the last few decades. This flagrant disregard for the statute is inexcusable and should not be permitted to be continued. This ^{dis}regard for the law is further compounded when the Department of Municipal Affairs gives support by the issuance of a manual or schedule of values based upon some other period of time other than the present. I believe, 'actual value' must be, and is only, measurable in the current market. Any removal in a forward or backward direction introduces assumptions and of necessity must be hypothetical and speculative. Therefore, it would seem to be imperative that some statutory direction be enacted either qualifying 'actual value' as current market value or some other postulated value which must be determined for assessment purposes.
3. Another point, I would like to raise is the unnecessary tampering of the assessment base instead of setting up taxing differentials. Should it be necessary any relief be given to any group or class of persons then this relief should be given from the rating or taxing side and not from the assessment side. This is especially true when assessing farm properties having regard to the current market, these properties should be assessed in accordance with the law at 'actual value' and afterwards a taxing exemption should be and must be granted.



4. I further believe that the granting of statutory assessments to public utilities and pipe lines be abolished and that these kinds of properties be valued at 'actual value'; also that the value of the parts be the value of the parts of an organic whole. This is to say, where a public utility or pipe line is in business in other than one municipality it should be valued as one entity and a proportionate assessment be allotted to each municipality in which it might operate. I believe that such kind of valuation should not change for a period of at least five years and some independent body be set up to make the valuation and the person or persons charged with this task be responsible only to the legislature and not to any Minister or Department of the Government. The cost of such valuation could be chargeable against the various municipalities on a proportionate basis.

5. Further, to the above point all properties should be valued in accordance with the principle of "unim quid" and any appeal which might be entered be against the totality and not against the several parts while for instance it may be necessary for statistical purposes to separate land and building assessment, it will be agreed that it will be taxed against the total and any conveyance or transfer will be against the whole or if a part this will be considered to be a whole and thus it should be valued.

6. In respect to appeals it is my submission assessment appeals should only be lodged with an independent Court of Revision and from thence to a newly established tribunal. This tribunal to be set up to determine in place of the County Judge or the Ontario Municipal Board any appeals against the assessment. There should also be provisions that such a tribunal be a specialized judicial body with rules for regulating procedures before it, with power to award costs and a right of appeal to the County Court or the Court of Appeal on a point of law. It would seem desirable that for any tribunal as contemplated new rules be set out for:

- a) the form of the decisions and as to how amendments might be made thereto in pursuance to any direction given by the courts,
- b) the time when a proceeding might be instituted,
- c) the evidence which may be required or admitted,



d) the sitting of assessors with the tribunal as may be deemed necessary when dealing with cases calling for special knowledge, (The assessors as the case may be, may or may not be assessors appointed for municipal tax purposes.)

e) the application of relevant provisions of the Arbitrations Act,

f) the publishing of the rules of practice and procedures for the proper governments of such a tribunal,

g) continuing policy to publish selected decisions of the tribunal in some easily accessible form.

7. Further, it is my submission that all legislation respecting local Courts of Revision should be repealed and new provisions be re-enacted so that

a) no more than three fit persons be required, of which two could be a quorum,

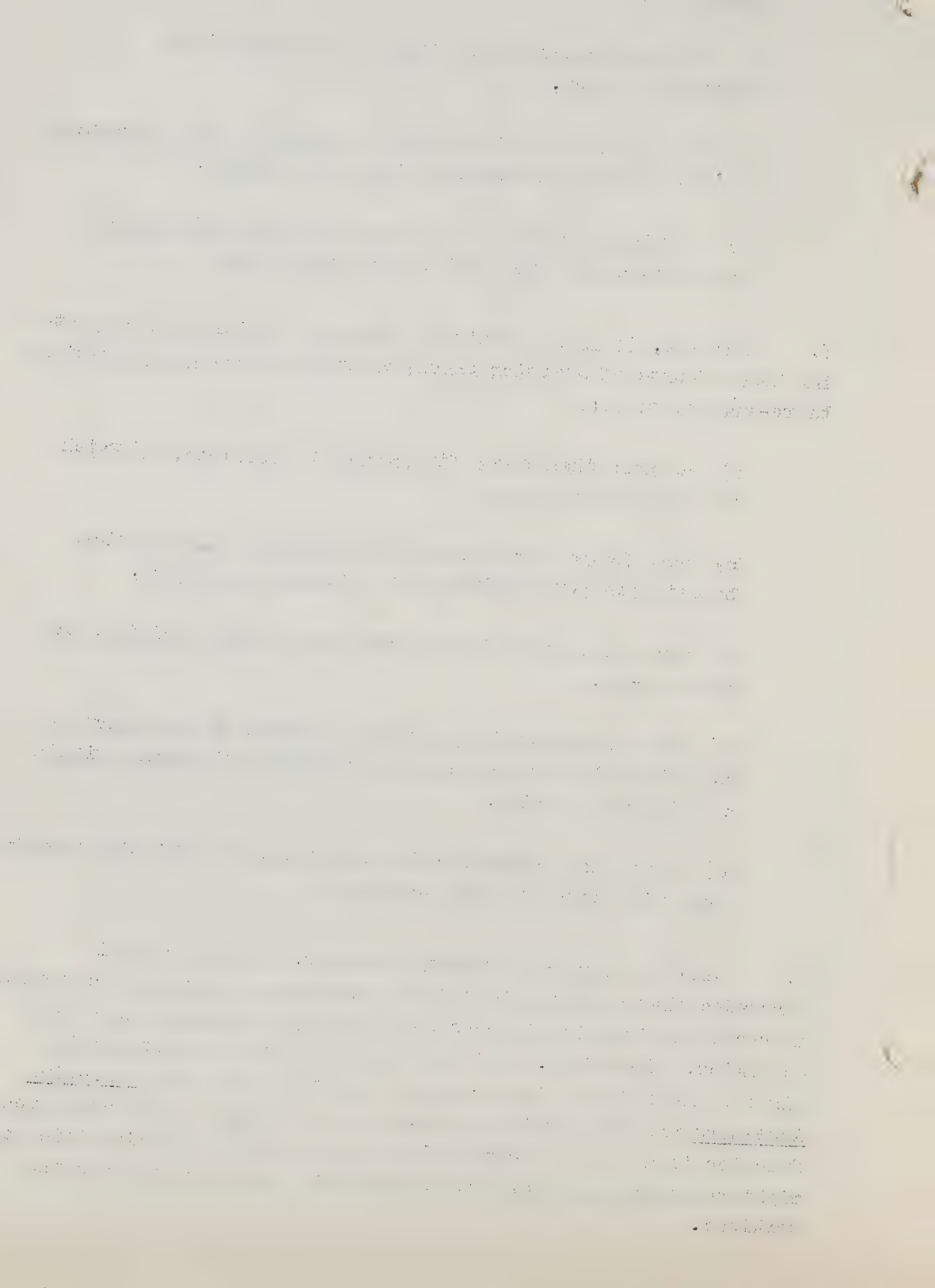
b) some basic formal rules of procedures and practices be set down yet permitting an informal atmosphere,

c) that some provision be made for written decisions or stated cases,

d) that no person be permitted to serve on the Court of Revision if he or she has been a member of Council within a stipulated period,

e) that some informal rules of evidence be set out consistent with correct legal practices.

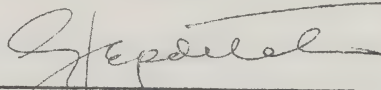
8. While serving as a County Assessor, I am not at all persuaded that a centralized County Assessment System as contemplated in recent legislation is consistent with good practice and sound economics. Therefore, it is my submission that an alternative might be made for an inspectorate, together with such full-time Assessors properly trained and who are in charge of the assessment function in a district comprising of one or more municipalities as might be deemed necessary consistent with sound economy and the workload.



9. In any case, whether there be a County Assessor, or a County Inspector of Assessments there should be a further defining of what are the powers and duties of the County Assessor. Here is where some statutory regulation and ministerial directives are needed. Therefore, it is my submission that the section respecting the appointing of a County Assessor should be repealed and re-enacted so that it might be brought into line with powers given to a district assessor under Section 104 of the Assessment Act together with official regulations as might be deemed necessary.

10. One last point: the taxing of summer cottages. Here is an area where some study could be made respecting the granting of relief from other than the general rate for this class of property. By summer cottage, is meant the residence of the summer visitor, not the place of business of a summer resort operator. If any relief is to be granted this last class, it should be in the business assessment only and in the use of a different percentage to arrive at the business assessment.

All of which is respectfully submitted,


G. D. Hepditch

P.S.

For the information of the Committee, the qualifications of the writer are as follows:

B. A. (Economics)

Senior Member - American Society of Appraisers - with designation of A.S.A.

Fellow - Rating and Valuation Association - with designation of F.R.V.A.

Past President - Toronto Chapter - Society of Residential Appraisers

Past President - Appraisal Institute of Canada and one time full member

Past Presenent - Toronto Chapter - American Society of Appraisers

Past President and presently serving as Governor of the Institute of Municipal Assessors of Ontario - with designation of M.I.M.A.

One time supervisor of the Greater Toronto Assessment Board

One time supervisor of the Assessment Department - Metropolitan Toronto

Presently serving as County Assessor for the County of Ontario for the past six years.

Having in all 25 years experience in the Assessment and Appraisal practice.

G.D.H.

1. The purpose of this document is to provide a comprehensive overview of the current status of the project and to identify the key areas that require further attention. The information presented herein is based on the most recent data available and is intended to serve as a guide for decision-making.

2. The project has made significant progress since the last report, with several key milestones being achieved. However, there are still a number of challenges that must be addressed in order to ensure the successful completion of the project. The following sections provide a detailed analysis of the current situation and outline the recommended course of action.

3. The first major area of concern is the timeline of the project. It has been noted that several key deliverables are currently behind schedule, which could potentially impact the overall completion date. It is recommended that a detailed review of the project schedule be conducted to identify the root causes of the delays and to develop a plan to bring the project back on track.

4. Another key area of focus is the budget. There have been several instances where costs have exceeded the allocated budget, which could result in the project being over budget. It is recommended that a thorough review of the budget be conducted to identify areas where costs can be reduced and to ensure that the project remains within the allocated budget.

5. The final area of concern is the quality of the work. It has been noted that there have been several instances where the quality of the work has been substandard, which could potentially impact the overall quality of the project. It is recommended that a detailed review of the work be conducted to identify the root causes of the quality issues and to develop a plan to improve the quality of the work.

6. In conclusion, the project is currently in a state of transition, with several key areas requiring further attention. The information presented herein is intended to provide a comprehensive overview of the current status of the project and to identify the key areas that require further attention. It is recommended that a detailed review of the project be conducted to identify the root causes of the issues and to develop a plan to address them.

BRIEF TO THE SELECT COMMITTEE OF THE
LEGISLATURE ON THE LICENSING POWERS
OF MUNICIPALITIES.

Section 247 (4) of the Municipal Act provides as follows;

"Subject to The Theatres Act, the granting or refusing of a license to any person to carry on a particular trade, calling, business or occupation, or of revoking a license under any of the powers conferred upon a council or a board of commissioners of police by this or any other Act, is in its discretion, and it is not bound to give any reason for refusing or revoking a license and its action is not open to question or review by any court."

Sub-section (9) of Section 247 provides as follows:

"Notwithstanding subsection (4), the decision of a board of commissioners of police in refusing or revoking a license is subject to an appeal therefrom to a Judge of the Supreme Court whose decision is final."

The effect of these two sections is that a Municipal Council in exercising its power to license, can arbitrarily and without just cause, refuse a man the right to carry on his business and thereby deprive him of his livelihood. No reason need be given for the refusal and unless the applicant can prove malice or some other improper motive (which is practically impossible), he has no recourse to the Courts.

Most small Municipalities in Ontario do not have Boards of Commissioners of Police, and in those situations all licensing is done by the Municipal Council. This means that in most of the communities in Ontario a license may be arbitrarily withheld, suspended or revoked and the decision of the licensing body in question is not subject to review.

In our society the right to license or refuse to license a business is a powerful weapon; accordingly, when the Legislature bestows this power upon a Municipality, it should, in my opinion, accept the further responsibility of ensuring that the licensing powers are fairly and honestly administered and that adequate safeguards are built into the law to protect the subject from being discriminated against by the Municipality. The Legislature should do everything in its power to protect the right of the subject to earn his livelihood in any legitimate enterprise.

Municipal licensing powers are designed to serve certain proper purposes:

- (1) They are a source of revenue for a Municipality;
- (2) They provide a Municipality with the opportunity of regulating certain businesses in the interests of the public welfare. For example restaurants (which should maintain a certain standard of cleanliness), and also businesses such as taxis where the character

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of the operator must be such as to ensure the safety of his would-be passengers:

(3) As a corollary to (2), the power to license quite properly gives the Municipality the right to preclude persons of ill-repute from carrying on certain classes of business.

However, licensing was never intended, nor should it be permitted, to give a Municipality or any Municipal agency the power to discriminate against respectable and responsible corporations or individuals because of race, colour, creed, nationality, place of origin, or for any other improper cause.

The difference between the attitude of our Legislature towards discrimination as practised by individuals and as practised by Municipal bodies which are the very creatures of the Legislature, constitutes a strange anomaly. The Legislature has gone to great lengths to protect the subject from discrimination at the hands of private persons for race, colour or creed, but does nothing to protect the subject from discrimination at the hands of public bodies in an area just as important - the area of earning a livelihood in his business, where that business is one for which a Municipal license is required.

It is my strong conviction that the Municipal Act should be amended to provide that no Municipal Council or Municipal body which has the power to license a business, shall have the right to withhold a license without setting out in writing the grounds and reasons for which such license is refused. Further, in every case where a license is refused, the applicant should have the right to appeal the refusal to an impartial tribunal consisting of a person or persons with legal training such as a County Court or Supreme Court Judge.

There is no doubt in my mind that the licensing powers of Municipalities are being abused and I think it is time that the private citizen in our Province received a Provincial Bill of Rights. If the Legislature is not prepared to protect the subject against prejudice and malice where the issuance of Municipal licenses relating to the carrying on of businesses is concerned, then the Legislature should withdraw the licensing powers in question from the Municipalities in toto.

Respectfully Submitted,

W. Bernard Herman, Q.C.

October 30th, 1962.

To the Chairman & Members of the Select Committee on the Municipal Act & Related Acts.

Gentlemen:

We, the Board of Governors of the Institute of Municipal Assessors, respectfully request to submit this brief on assessment and related matters.

In this submission the Board suggests amendments to the Municipal Act which are intended to benefit first the Assessor's jurisdiction in producing a better and more equitable assessment by enhancing his security and improving his training for office, and second, by making it a requisite that full-time personnel be employed in the practice of assessment.

The Board further desires to comment on a publication of the Ontario Association of Real Estate Boards headed "Legislative Notes" which states that the O.A.R.E.B. has submitted a brief to the Select Committee suggesting certain changes in assessment legislation and proceeds to outline same.

Firstly, this brief will deal with the history, formation and general mechanics of the Institute's course in assessment.

For a number of years the Association of Assessing Officers of Ontario had been conscious of a need to secure a recognized standing and acceptable accreditation for Assessors. In December 1952 the Association Executive received a delegation requesting that positive action be taken in this regard. The Executive concurred with the suggestion and appointed a provisional committee of six members. Several meetings were held and the committee reported to the May 1953 Convention of the Association that the only practical way of guaranteeing that the standard of the Institute would be recognized was through affiliation with a University. In December of 1953 a definite affiliation with Queen's University at Kingston was arranged. At the same time a general plan for instruction was inaugurated consisting of papers or lessons written by the most highly qualified persons available. The Fall of 1954 was suggested as the commencement date for the first year's course and in September the first students began to write lessons.

At this point in the history of the Institute the provisional committee was renamed the Board of Governors and along with various sub-boards moved forward in the preparation of the

material required for the second and third years of instruction. This was completed on schedule and on the 29th day of May, 1957, at the City of Windsor, the Institute reached its full maturity. On that date the Association of Assessing Officers of Ontario was proud to honour the first graduating class of the Institute, 24 in number, at a noon luncheon. It was announced at that time that an Institute Charter had been granted by the Province of Ontario making it an official body, now responsible for electing its own officials and carrying on its own business.

Very briefly may we present to you something about the manner in which instruction is given.

Instruction is carried out entirely by correspondence over a three year period divided into three distinct one year periods with one written examination at the end of each year.

Lessons are mailed by the University at stated periods from mid-September to early March. At the end of each lesson a set of questions is provided which must be answered and returned to the University.

Tutors appointed by the University assign grades to the answers submitted, along with helpful comment and criticism where necessary. The lessons are then returned to the student.

At the present time several text books and booklets are supplied to the students without additional charge. A complete list of these booklets is set out in the 1962 brochure with which your Committee has been supplied.

A bibliography of other supplementary reading material is given to the student. The Institute provides a free lending library which contains all supplementary reading material and this is available to students on payment of mailing charges. Books may also be purchased through the Institute at cost.

In 1962 the cost has been set at \$65.00 for each of the three years. This is the only cost to the student if he completes his work on schedule and sits at the appointed time for his examination at any one of the eighty-four examining centres provided by the University. Provision is made for a student to extend the course over a six year period, with no more than two years in any one year of the course. A student who fails an examination or is desirous of raising his standing may write a supplemental examination. In either of these instances a \$10.00 fee is charged.

To graduate a student must obtain an average of 60% for each year of instruction with a minimum mark of 50% in any one year.

In recognition of the successful completion of the course Queen's University awards a certificate of standing to all graduates. In addition, graduates are eligible for election as members or associate members of the Institute and if so elected are awarded by certification the designation M.I.M.A. or A.I.M.A. in accordance with the terms of qualifications as contained in the Constitutional By-laws.

We, of the Institute, are proud that our graduates are receiving widespread recognition in the field of assessment and the commercial world of our Province. Almost every assessment position advertised requires that the applicant be a student or graduate of the Institute of Municipal Assessors. Public corporation employees, Civil Servants, tax agents of industry, real estate agents, appraisers etc. have registered in the course, graduated and have been elected as Associate members.

Industry recognized the work of the Institute by subscribing large voluntary contributions to assist us in purchasing books when the lending library was first set up.

The course as presented is not easy, it was not intended to be, and many have difficulty in successfully completing it. Some find they are academically unsuited to assimilate and retain the knowledge imparted, while others find they are unfitted experience wise to continue with their studies. While this results in drop-outs we are advised by the University that these are in line with their normal academic courses. We are also advised that our failure rate is remarkably low.

Since the course started in 1954-55 up to, but not including this year's graduates we find the following statistics:

	<u>Students</u> <u>Registered</u>	<u>Wrote</u> <u>Exams</u>	<u>Passed</u>	<u>Failed</u>
1st Year	769	634	571	63
2nd Year	542	501	409	92
Final Year	398	381	323	58

The results for the last few years show a higher percentage of failures than the average of the eight year history of the Institute. This was expected to show up in the results and we are not perturbed by it, as we are continually striving to

up-grade the material and the work of the student. We are happy that the drop-out percentage is diminishing, indicating that the calibre of the student registering is higher.

The group narrows down progressively, but this is the sort of picture one must expect to see. If it were not so, the standing of a graduate would mean very little.

For a course to be valuable and to have real significance it must maintain a high standard. It requires a real examination on the material being studied, and an exacting grading of the answers. It requires continual re-writing of the lesson material, broadening the scope of coverage, keeping up-to-date with legislative enactments and recognition of a changing economy. In an effort to keep abreast of these matters the Institute is at present re-editing all of the first year lessons. This year three new lessons are being added. Committees have been struck to examine the question of continuing the instruction through to the ultimate attainment of a Fellowship in the Institute. In this regard very close association must be maintained with the University. Also a committee has been formed to examine the question of oral and practical examination.

The Institute trusts it has met these requirements and it has, and will, continue to produce graduates who will be a credit to themselves, to the assessment profession, the University and to the Institute.

Secondly, we suggest that to improve the practice of assessment and the status of the Assessor in Ontario that Section 226 of the Municipal Act requires to be amended by adding thereto the subsections shown below. We further suggest that this would not be setting a precedent as the Public Health Act, Sections 34 & 37, has similar provisions for the appointment and dismissal of the medical officer of health.

- (7) The council of every municipality shall appoint a properly qualified assessor to be the assessor, assessment commissioner or county assessor and every such appointment is subject to the approval of the Minister.

- (a) Proper qualification shall require such requisites as are prescribed by the Minister, but should include, a minimum of five years general experience in assessment or related fields, membership in the Institute of Municipal Assessors, or who is eligible to become a member by reason of graduation from

a three year course of study for assessors as provided by Queen's University at Kingston or other Universities.

- (b) The Minister may waive any of the required qualifications to permit appointments on a temporary basis. Such temporary appointment not to extend beyond a period of five years and to be approved annually.

Note: This would provide a temporary appointee sufficient time to obtain the proper qualifications required by (a).

- (8) Every assessor, assessment commissioner or county assessor appointed by the council shall hold office during good behaviour, and shall not be removed from office except on a two-thirds vote of the whole council and with the consent and approval of the Minister, who may require cause to be shown for the dismissal.
- (9) The appointment of an assessor, assessment commissioner or county assessor, shall be as a full time official whose sole concern shall be assessment. If the nature of the municipality does not warrant full time employment, two or more municipalities shall be combined to form an assessment district to provide full time employment as ordered by the Minister.
- (10) Every person employed as an assistant or beginner in an assessment department and whose duties will have an effect on determining assessment values shall be a student or agreeable to become a student of the course of study of the Institute of Municipal Assessors as sponsored by Queen's University at Kingston.

It is our opinion that the brief of the Ontario Association of Real Estate Boards as reported in the previously mentioned "Legislative Notes" is not cognizant of all the intricacies of assessment administration and certainly gave the erroneous impression that training courses are not available to Assessors.

One of their recommendations suggests that the words "Actual Value" as they are used in Section 35. (1) of the Assessment Act be changed to the words "Current Market Value". Undoubtedly the goal desired is that assessment values have a closer relationship

to Market Value than now generally exists, with which we agree, however, we feel the use of "Current Market Value" denotes the today's highest price estimated in terms of money which a property will bring if exposed for sale on the open market. This is usually estimated by a competent appraiser who has considered all local conditions having a bearing on the property being appraised, applied his knowledge of sales and income of similar properties resulting in, at best, what is a value estimate. He is not greatly concerned that his value estimate be equitable to all other properties of a similar nature and condition, while this is the greatest concern of the Assessor. Assessments are usually prepared over a period of months and what may be today's highest price in January may be entirely different in August. It is this Board's opinion that assessed values should have a close relationship to "Actual Value" and we feel this could best be determined by relating "Actual Value" to a value year much closer to 1962 than the generally accepted practice of using a base year of 1940.

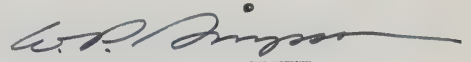
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The O.A.R.E.B. further suggests in one instance that "Current Market Values" be used and in another that a uniform manual of values be prepared for use in all Ontario Municipalities. This is contradictory for if such a manual were prepared it could not reflect "Current Market Value" except perhaps for a very limited period. A manual of values for all municipalities prepared on the basis of a realistic value year, and properly indexed to reflect localized factors of building costs and market variations would be a decided asset to Assessors as a basis for their assessments and this Board would unquestionably support such a move.

In conclusion may we thank you for your consideration in

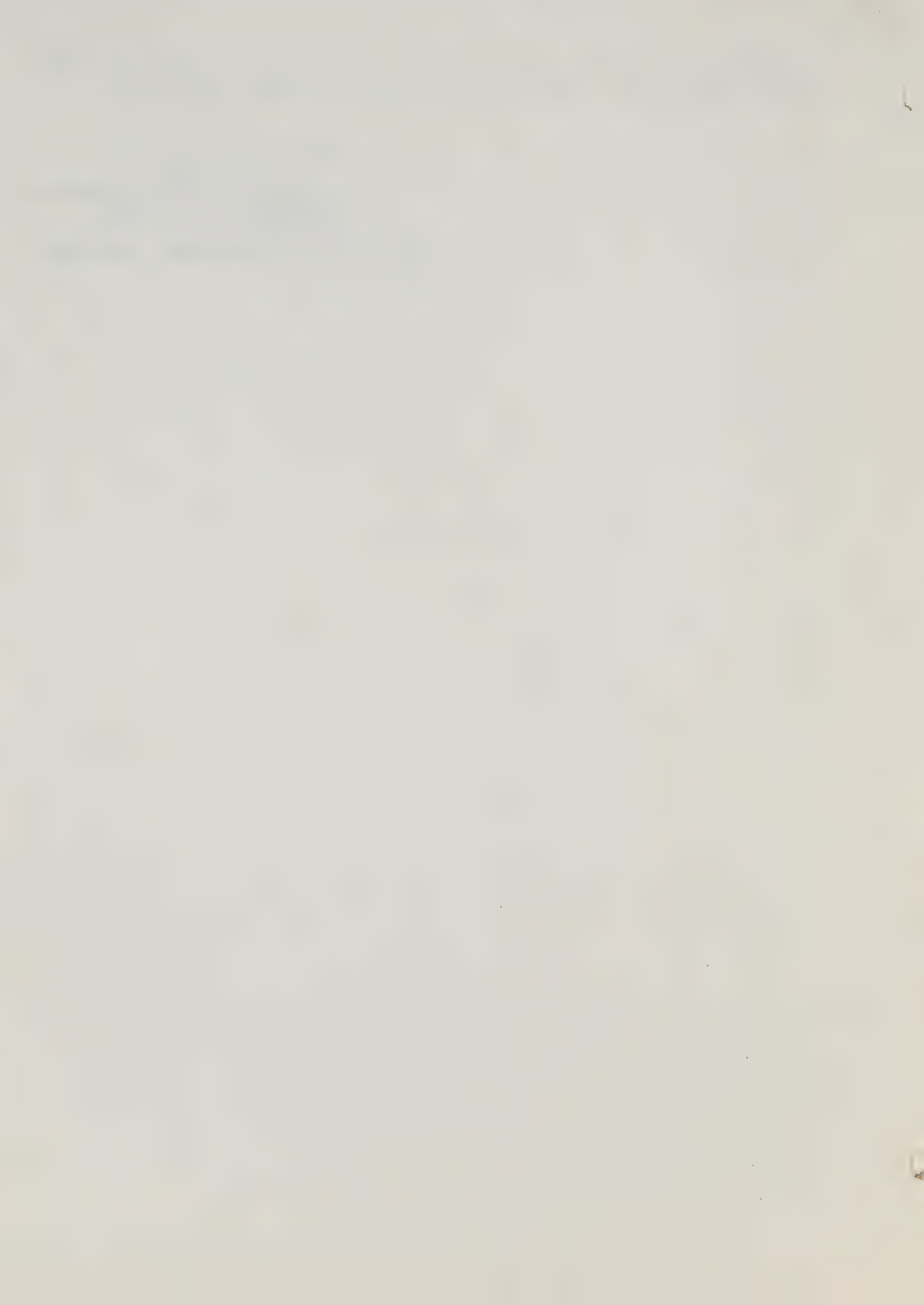
studying this brief which we trust you receive as being for the common good of all taxpayers and their Assessor employees.

Yours respectfully,

A handwritten signature in dark ink, appearing to read "W. D. Briggs", with a long horizontal flourish extending to the right.

President

INSTITUTE OF MUNICIPAL ASSESSORS



To the Chairman & Members of the Select Committee on the Municipal Act & Related Acts.

Gentlemen:

We, the Board of Governors of the Institute of Municipal Assessors, respectfully request to submit this brief on assessment and related matters.

The Institute of Municipal Assessors is an organization chartered by the Province of Ontario whose purpose is to raise the professional standing and knowledge of persons engaged in the practice of assessment and to provide a recognized course of studies and training for such persons.

To this end a three year correspondence course was established and is sponsored and administered by Queen's University who provide tutorial services and conduct examinations leading to a diploma on successful completion of the course of study. The course was established in 1954 and to date over 700 persons have enrolled, 292 have graduated and 205 are active students. The course covers a broad field including Appraisal, Law, Administration, History of Municipal Government and Economics. The lesson material and texts are written by recognized authorities in their particular field.

In this submission the Board suggests amendments to the Municipal Act which are intended to benefit first the assessor's jurisdiction in producing a better and more equitable assessment by enhancing his security and improving his training for office, and second, by making it a requisite that full-time personnel be employed in the practice of assessment.

The Board further desires to comment on a publication of the Ontario Association of Real Estate Boards headed "Legislative Notes" which states that the O.A.R.E.B. has submitted a brief to the Select Committee suggesting certain changes in assessment legislation and proceeds to outline same.

We suggest that to improve the practice of assessment and the status of the assessor in Ontario that Section 226 of the Municipal Act requires to be amended by adding thereto the subsections shown below. We further suggest that this would not be setting a precedent as the Public Health Act, Sections 34 & 37, has similar provisions for the appointment and dismissal of the medical officer of health.

- (7) The council of every municipality shall appoint a properly qualified assessor to be the assessor, assessment commissioner or county assessor and every such appointment is subject to the approval of the Minister.

- (a) Proper qualification shall require such requisites as are prescribed by the Minister, but should include, a minimum of five years general experience in assessment or related fields, membership in the Institute of Municipal Assessors, or who is eligible to become a member by reason of graduation from a

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three year course of study for assessors as provided by Queen's University at Kingston or other Universities.

- (b) The Minister may waive any of the required qualifications to permit appointments on a temporary basis. Such temporary appointment not to extend beyond a period of five years and to be approved annually.

Note: This would provide a temporary appointee sufficient time to obtain the proper qualifications required by (a).

- (8) Every assessor, assessment commissioner or county assessor appointed by the council shall hold office during good behaviour, and shall not be removed from office except on a two-thirds vote of the whole council and with the consent and approval of the Minister, who may require cause to be shown for the dismissal.
- (9) The appointment of an assessor, assessment commissioner or county assessor, shall be as a full time official whose sole concern shall be assessment. If the nature of the municipality does not warrant full time employment, two or more municipalities shall be combined to form an assessment district to provide full time employment as ordered by the Minister.
- (10) Every person employed as an assistant or beginner in an assessment department and whose duties will have an effect on determining assessment values shall be a student or agreeable to become a student of the course of study of the Institute of Municipal Assessors as sponsored by Queen's University at Kingston.

It is our opinion that the brief of the Ontario Association of Real Estate Boards as reported in the previously mentioned "Legislative Notes" is not cognizant of all the intricacies of assessment administration and certainly gave the erroneous impression that training courses are not available to assessors.

One of their recommendations suggests that the words "Actual Value" as they are used in Section 35 (1) of the Assessment Act be changed to the words "Current Market Value". Undoubtedly the goal desired is that assessment values have a closer relationship to Market Value than now generally exists, with which we agree, however, we feel the use of "Current Market Value" denotes the today's highest price estimated in terms of money which a property will bring if exposed for sale on the open market. This is usually estimated by a competent appraiser who has considered all local conditions having a bearing on the property being appraised, applied his knowledge of sales and income of similar properties resulting in, at best, what is a value estimate.

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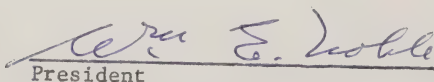
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The O.A.R.E.B. further suggests in one instance that "Current Market Values" be used and in another that a uniform manual of values be prepared for use in all Ontario Municipalities. This is contradictory for if such a manual were prepared it could not reflect "Current Market Value" except perhaps for a very limited period. A manual of values for all municipalities prepared on the basis of a realistic value year, and properly indexed to reflect localized factors of building costs and market variations would be a decided asset to assessors as a basis for their assessments and this Board would unquestionably support such a move.

In conclusion may we thank you for your consideration in studying this brief which we trust you receive as being for the common good of all taxpayers and their assessor employees.

Yours respectfully,



President

Institute of Municipal Assessors.

The first part of the report deals with the general situation of the country. It is a very interesting and informative study of the country's development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country's development.

The second part of the report deals with the economic situation of the country. It is a very interesting and informative study of the country's economic development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country's economic development.

The third part of the report deals with the social situation of the country. It is a very interesting and informative study of the country's social development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country's social development.

The fourth part of the report deals with the political situation of the country. It is a very interesting and informative study of the country's political development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country's political development.

The fifth part of the report deals with the cultural situation of the country. It is a very interesting and informative study of the country's cultural development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is a valuable contribution to the study of the country's cultural development.

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BOX 854
GRAVENHURST
ONTARIO, CANADA

May 17th, 1961

Secretary Select Committee
Dep't. Municipal Affairs
Toronto.

Dear Sir:

I have a letter from the office of the legislative counsel suggesting that I write to you.

I wrote to the department some months ago suggesting that some relief on the taxes of vacant homes be given to senior citizens who, for reasons of health are obliged to spend the winter months in a warmer climate.

Under the Assessment Act at present these taxpayers can qualify for reduction of taxes if their home is "Vacant". The Act further stipulates that the house must be unfurnished.

In effect, it means that a taxpayer in order to qualify for a reduction of taxes must move the furniture out of the house when he leaves, and move it back again when he returns.

Could the Assessment Act be amended so that the word "VACANCY" would include a house unoccupied with all the municipal services cut off for a period of three months and not more than six months?

Yours Truly

APK/S

(Mr. A. B. Kew)

B R I E F

Submitted on behalf of

MEDORA & WOOD RATEPAYERS' ASSOCIATION
- - - - -

THE STATUTORY QUALIFICATIONS AS TO
RESIDENCE OF CANDIDATES FOR THE OFFICE
OF COUNCILLOR OF A LOCAL MUNICIPALITY
- - - - -

In the Province of Ontario the qualifications for candidates for the office of Councillor of a Municipality and those of Municipal Electors are prescribed by Sections 34 and 37 of The Municipal Act (R.S.O. 1960, C.249). Broadly speaking, the qualifications of candidates and electors are similar, although not identical, with one important exception. Electors must be owners or occupiers of property rated for assessment in certain minimum amounts. Residence is not required, in the ordinary case, to qualify as an elector. Residence within a specified distance of the Municipality is a qualification which is, and from the beginning has been, required for a candidate.

The only topic with which this Brief is concerned is that of the residence requirement. A brief glance at the history of municipal government might assist in putting this topic in focus.

The present day system of local self-government in the Provinces of Canada owes its origin to the system which had developed in England. In broad terms, that system had evolved down through the years from government by representatives chosen by and from the ranks of local wealthy landowners, to government by representatives chosen by popular vote. The trend from the old narrow basis of selection to the modern broad basis was in keeping with the liberal ideas and attitudes abroad in the 19th Century.

It is worthy of note that local self-government as we know and understand it today really took shape as recently as 1835 in England and 1849 in Upper Canada.

The Upper Canada Municipal Corporations Act (12 Vic. Cap.81) was passed in 1849. Among other things, it made

certain provisions for the qualifications of electors and candidates. It was repealed in 1859 by The Municipal Institutions of Upper Canada Act (22 Vic. Cap. 99). The latter Act provided that the basic qualifications of an elector were to be (a) residence within the Municipality, and (b) a minimum rating on the Assessment Roll in respect of real property, the amount of which ranged from \$12.00 in a Village to \$30.00 in a City.

The basic qualifications of a candidate were to be (a) residence within the County in which the Municipality was situated, and (b) a minimum rating on the Assessment Roll in respect of real property, the amount of which ranged from \$40.00 in Villages to \$320.00 in a City.

Over the years that followed, various amendments were enacted in respect of these qualifications of electors and candidates, the general trend being towards a lowering of property qualifications. So far as qualifications of candidates were concerned, these were fixed, in substantially their present form, in 1920 by an Act entitled "An Act to Reduce Property Qualifications of Candidates for Membership in Municipal Councils."

At no time since 1859 has the Legislature reduced the "residence" qualifications of candidates. Indeed, it is to be noted that whereas in 1859 it was sufficient for a candidate to reside within the County, today, despite the vastly improved modes of transportation, a candidate must reside in or within five (5) miles of the Municipality.

In this Province, and elsewhere, there have been numerous cases in which the meaning of "residence" has been determined by the Courts for the purposes of particular Statutes, such as Statutes relating to taxation, the protection of children and local options. It is only on comparatively rare occasions that "residence" has judicially been defined with respect to the qualifications of a candidate for municipal election.

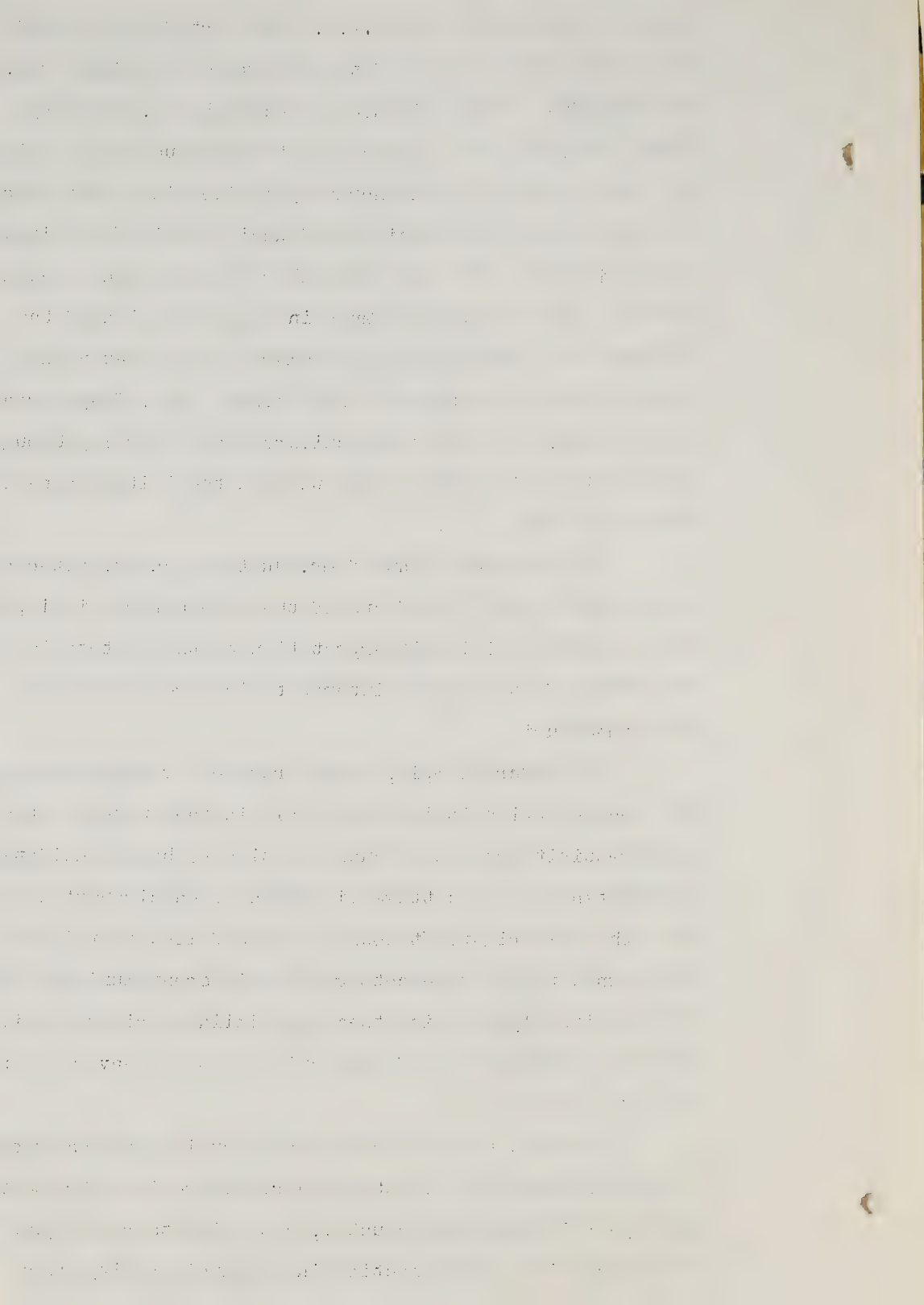
In a recent case (Re: Election of Bushnell et al, Ex rel. Gonneau, 34 D.L.R. (2d) Part 8 at Pages 539-547), Mr. Justice Schatz of the Supreme Court of Ontario, reversing the Judgment of His Honour Judge Thomas, a County Court Judge, held that two candidates for municipal office who had their homes and normally resided in Toronto were eligible for election as Municipal Councillors in The United Townships of Medora and Wood, wherein they each owned a summer cottage. Their residence in and occupation of their cottages was during the summer months of July and August and occasionally at weekends at other times. They earned their living, schooled their children and generally brought up their families elsewhere than in the United Townships of Medora and Wood.

The Judgment of Mr. Justice Schatz, although based on the particular facts of the case before him is, nevertheless, a judicial interpretation of the Statute in this regard. The effects of this interpretation are many and some of them curious.

For example, the average owner of a summer cottage, who occupies it in effect only in the summer months, has the requisite residence qualification to be a candidate. Indeed, a tenant of a cottage might, in given circumstances, claim the same right. It would seem to follow that if a person owned two or more cottages in different municipalities and habitually occupied them for similar periods of time he would be eligible for election in these several municipalities for the same year.

Further, a person who occupies (as owner or tenant) a summer cottage, but who normally resides for most of the year in a foreign country, could if otherwise qualified, be a candidate for election in the municipality where his cottage is, since he would appear to have the necessary residence qualification.

The foregoing examples should not obscure the



important fact that the Court decision referred to was not confined to municipalities in summer "resort" areas but, insofar as it is interpretative of the qualifications of a municipal councillor as set forth in the Municipal Act, embraces all municipalities.

In other words, as a matter of law, persons who had nothing better than a tenuous residence in the City of Toronto and normally resided in another municipality, province or country, would have the right to be candidates for municipal election in that City and therefore, if elected, to govern it.

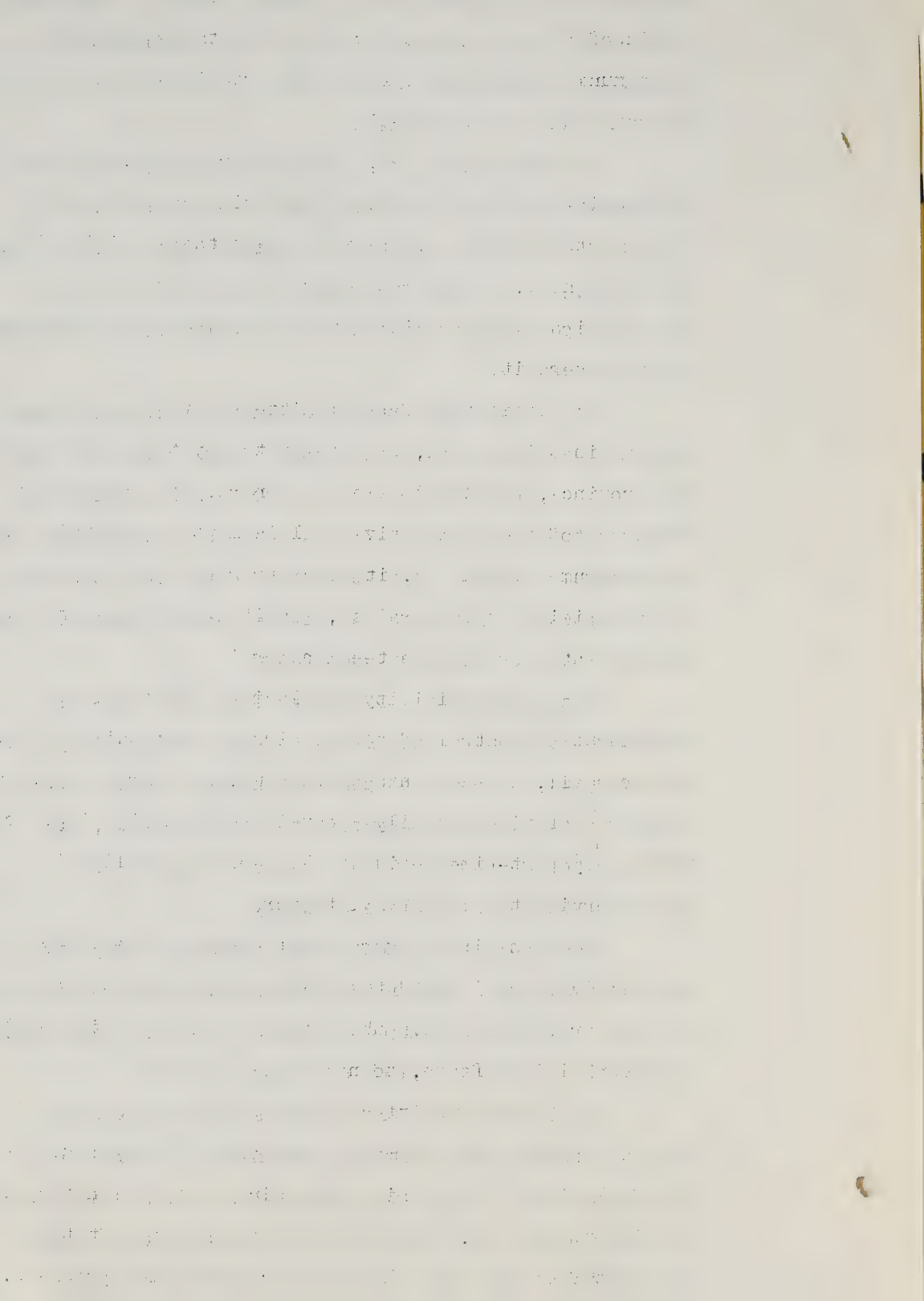
It is therefore submitted that the present state of the law in this regard, as interpreted by the Courts of this Province, is undesirable and contrary to the historical trend of the legislative will in matters of municipal self-government. Indeed, it is contrary to the very concept of a municipality. It raises, albeit in another context, the ancient fear of absentee landlordism.

The possibility of placing full and full-time executive control of the affairs of any municipality, large or small, in the hands of persons, however worthy, who, in terms of time actually spent in the municipality, are barely part-time residents has serious implications deserving the most complete scrutiny.

Municipal government today comprises many and complex functions, duties and obligations such as health, welfare, education, public utilities, economic development, even civil defense, to name only some of them.

It is submitted that these should be exercised only by persons who habitually and normally reside on a full-time basis within the municipality which they govern - in other words, local government is best left to those most familiar with the local scene and its problems.

Candidates for election to the Dominion Parliament must normally reside in Canada. In Ontario, candidates for



election to the Legislature must normally reside in the Province.

The principle enshrined in these requirements for Dominion and Provincial legislators is that they must normally reside, i.e. live and move and have their being in the area in which they are to exercise their legislative and governmental functions.

There is no valid reason to depart from this principle in matters of municipal government. It is therefore submitted that the Legislature of this Province should be invited to consider amending those portions of the Municipal Act which govern the residence qualifications of candidates for election to municipal councils so as to ensure that no person who actually and normally resides and lives outside of a municipality or its immediate environs can be qualified to run as a candidate for election to the Council of that Municipality.

- - - - -

Respectfully submitted by

LANG, MICHENER, CRANSTON & RENWICK,
50 King Street West,
Toronto, Ontario

Solicitors for The Medora & Wood
Ratepayers' Association.

October 31, 1962.

1. The first part of the report is a general introduction to the subject.

2. The second part is a detailed description of the methods used in the study.

3. The third part is a discussion of the results of the study.

4. The fourth part is a conclusion and a list of references.

5. The fifth part is a list of figures and tables.

6. The sixth part is a list of appendices.

7. The seventh part is a list of footnotes.

8. The eighth part is a list of references.

9. The ninth part is a list of figures and tables.

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11. The eleventh part is a list of footnotes.

12. The twelfth part is a list of references.

13. The thirteenth part is a list of figures and tables.

14. The fourteenth part is a list of appendices.

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16. The sixteenth part is a list of references.

17. The seventeenth part is a list of figures and tables.

18. The eighteenth part is a list of appendices.

19. The nineteenth part is a list of footnotes.

20. The twentieth part is a list of references.

BLACKWELL, HILTON, TREADGOLD & SPRATT

BARRISTERS AND SOLICITORS

JOHN D. HILTON, Q.C.
DONALD M. TREADGOLD, Q.C.
ROBERT W. SPRATT
ROBERT LAW
JAMES F. LAING
ROBERT C. CULLEN
FREDERICK A. TIKAL

STERLING TOWER BUILDING - 372 BAY STREET

TORONTO 1

TELEPHONE
EMPIRE 2-2631

CABLE ADDRESS
"BLACKOUT"

July 27, 1961.

Select Committee on The Municipal
Act and Related Acts,
Room 377,
Parliament Buildings,
Toronto, Ontario.

Sirs: Re: Metropolitan Toronto Police Association

This letter is being written in response to advice received in a letter, signed by Mrs. H. G. Rowan, Secretary to your Honourable Committee, dated July 14th, 1961 and contains, in brief, the submissions of the Metropolitan Toronto Police Association (herein referred to as the "Association"), in relation to certain requests, which we understand have been made to your Honourable Committee by the Metropolitan Board of Commissioners of Police (herein referred to as the "Board").

At the outset, it should be stated that the Association has no exact knowledge of the requests of the Board; its only information being that gathered from the daily press. From this source, it is understood that the Board is seeking an amendment to The Police Act, R.S.O. 1960, ch. 298, and amendments thereto, which would have the effect of removing from the Bargaining Unit, by which the Association bargains with the Board, police officers of the rank of inspector and above. At the present time Section 27 of The Police Act requires the Association to bargain for "... the members of the police force, other than the chief constable and any deputy chief constable . . ."

The Association represents all members of the police force, other than chief constable and deputy chief constable, and includes in its membership not only the uniformed members of the force, but also the many non-uniformed employees, who today are adjuncts of a large police force. The Association has continually bargained for its members since the inception of the

Metropolitan Toronto Police Force and represents some 2,283 persons, male and female, including 74 members of the rank of inspector and above, but not including the chief constable or deputy chief constable.

In the year 1957, I am advised that efforts were made to amend The Municipality of Metropolitan Toronto Act in a manner which would have had the same effect as the amendment now sought. However, after discussions with representatives of the Association, this amendment was withdrawn by the Attorney-General before it became law. Subsequent to that time the members of the Association of the rank of inspector and above were questioned as to their desires in relation to this matter and an overwhelming majority, in fact all but two members, stated that they desired to remain members of the Association and to have that Association bargain for them, within the terms of Section 27 of The Police Act. Since that time there has not been one request received by the Association from any person of the rank of inspector and above with regard to leaving the Bargaining Unit.

An association called the Senior Officers Association, including members of the police force of the rank of inspector and above, has been formed. This association, I am advised, is of a purely social nature and does not wish to constitute itself a bargaining unit for its members. These members are all persons who have come up through the police ranks and have enjoyed the protection of the provisions of The Police Act and the resulting Collective Bargaining Agreements which, from time to time, have been entered into. They wish to continue under the protection of this Act and the rights which flow therefrom. Further, their fellow members of the Association wish to continue their inclusion in the Association and in the Bargaining Unit.

It should further be pointed out that members of the police force of the rank of inspector and above have all the rights and duties of a police constable. Certain inspectors work as police constables and daily carry out routine investigations; examples of which may be found in the Breaking and Entering and Fraud Squads.

The duties of an inspector, with regard to the members of the police force for whom he is responsible,

THE ASSOCIATION

The Monument Builders of Canada is a voluntary association of manufacturers and retailers of cemetery memorials. Such memorials comprise granite and marble monuments for erection on graves and bronze markers for use for a similar purpose. There are approximately one hundred and thirty-five such manufacturers and retailers in Ontario, of whom some forty-five are members of the Association. Of these, five are wholesale manufacturers who sell partly finished granite and monuments finished, save as to lettering and carving, to retail monument dealers. Forty-five are retail manufacturers who buy their granite from a quarry or manufacturer and make their own monuments for sale direct to the consumer. Approximately eighty-five are retail dealers who buy a finished monument from wholesale manufacturers, letter and carve the monument, build a foundation and set the monument in the cemeteries. Lettering and carving a monument are in themselves skilled operations requiring considerable equipment.

The activities of the Association are intended to promote the welfare of its members and those of the other manufacturers and retailers similarly engaged. Membership is limited to firms or corporations who maintain a studio or shop, carry a stock and are practical craftsmen or employ such in the production of memorials.

The members of the Association and those it represents comprise a group doing a substantial business in the Province of Ontario having large payrolls and paying substantial taxes. Information recently compiled by the Association indicates that in the last year of business sales in excess of \$3,000,000 at retail and of upwards of \$1,000,000 at wholesale were made by those reporting. Wages and commissions in excess of \$1,000,000 were paid and taxes

on all levels exceeded \$350,000.

The industry is subject to taxation at all levels - municipal, provincial and federal.

The industry has a large number of employees whose welfare is particularly related to the industry because of the fact that many of them are highly skilled in the trade and would find it difficult, if not impossible, to utilize these skills elsewhere.

THE PROBLEM

The legitimate business interests of these manufacturers and retailers are being adversely affected by competition from non-profit cemetery corporations enjoying exemption from taxes and, it is submitted, exceeding their legal powers in engaging in such competition.

NATURE OF COMPETITION

These corporations are now engaged in the sale of cemetery memorials manufactured in and imported from the U.S.A. on a large scale and the significance of their activities is increasing. The management of these corporations have indicated the intention of enlarging the volume of such sales. The problem is one which should be dealt with before the profit from such sales becomes an important element in cemetery revenues.

These corporations are non-profit corporations and, practically speaking, are exempt from taxation. The exemption from municipal taxation has been tested in the Courts as recently as 1959.

In addition to exploiting the tax exemptions which they enjoy, these corporations discriminate against manufacturers and retailers by making a higher installation charge in respect of memorials purchased other than from the cemetery corporation. These corporations also enjoy



an additional advantage in having usually made the first contact with a potential customer in relation to the sale of a cemetery plot.

The members of the Association are ready, willing and able to meet all fair and proper competition. The members feel, however, that the competition from these corporations is not fair. It is based on tax exemptions which confer a substantial advantage on such corporations and which, it is submitted, were never intended to be conferred on corporations engaged competitively in trade.

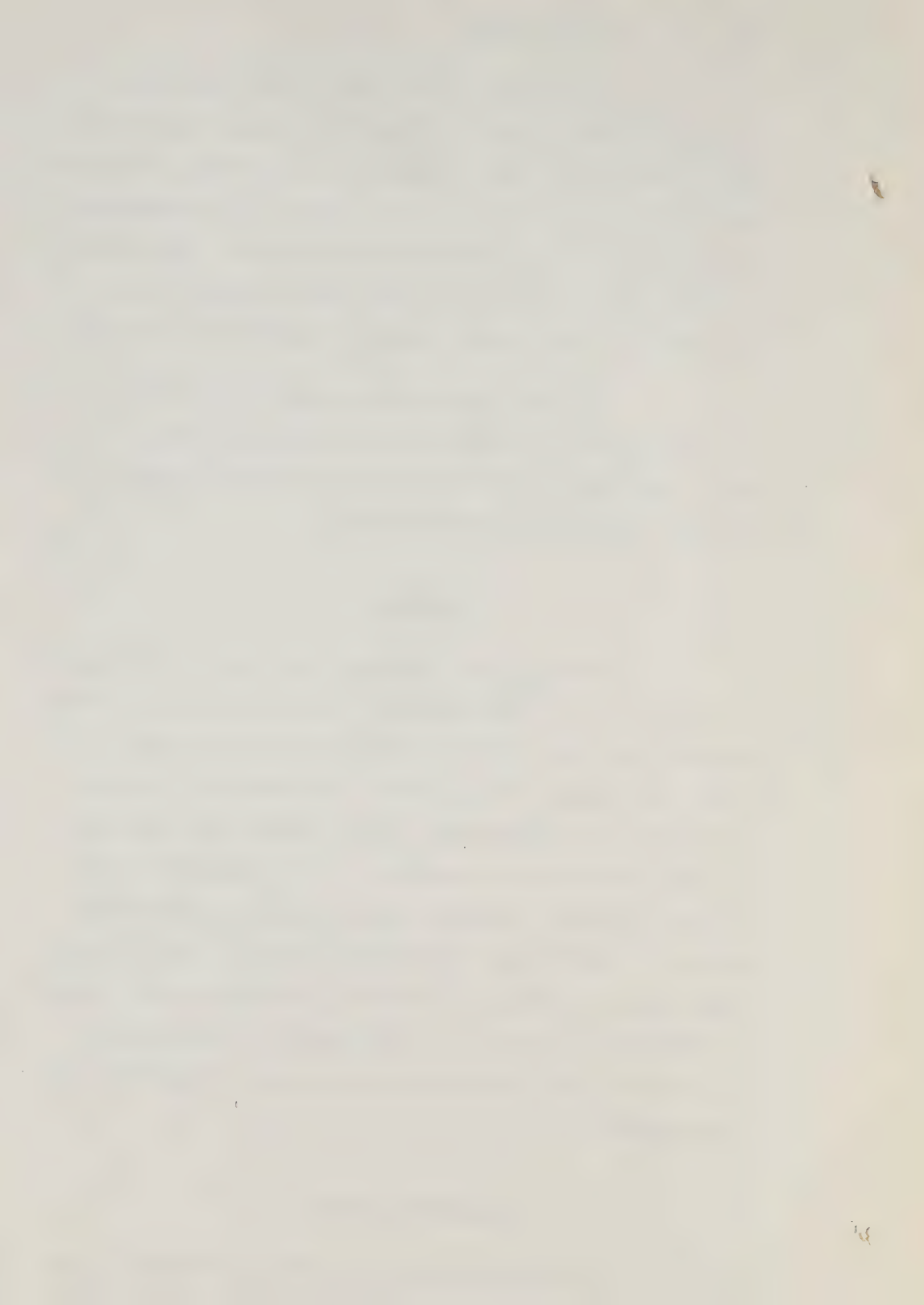
If these corporations require additional revenue it should be derived from increased charges for their legitimate services and not from unfair competition with the members of the Association.

ILLEGALITY

Many of these corporations have been brought into existence by special Acts of the Legislature. These Acts do not confer on the corporations the capacity to carry on a trade. Their powers are limited to the administration of cemeteries and to the purchase and sale of lots in connection therewith. It is submitted that the tax exemption conferred upon them was conferred by reason of the limited and special nature of the function they were to perform, and that the carrying on of a trade in competition with other individuals and corporations enjoying no such tax advantage was never contemplated by the Legislature.

THE REGULATIONS

The Regulations were recently amended to include in the definition of cemetery supplies "monuments, grave markers or memorial plaques of stone or metal". This amendment of the Regulations was to facilitate control by the Department of certain activities of cemetery owners.



It was not intended that any power should be expressed or implied with respect to the sale of such articles by any person or corporation which did not otherwise have such powers.

Nevertheless the Regulations do appear to contemplate the sale of such supplies by cemetery owners. If, as has been submitted, many, if not all of the non-profit cemetery owners now selling such supplies are illegally carrying on a trade or business, no regulation should exist which is possible of being interpreted as regulating or otherwise recognizing such activity.

RELIEF

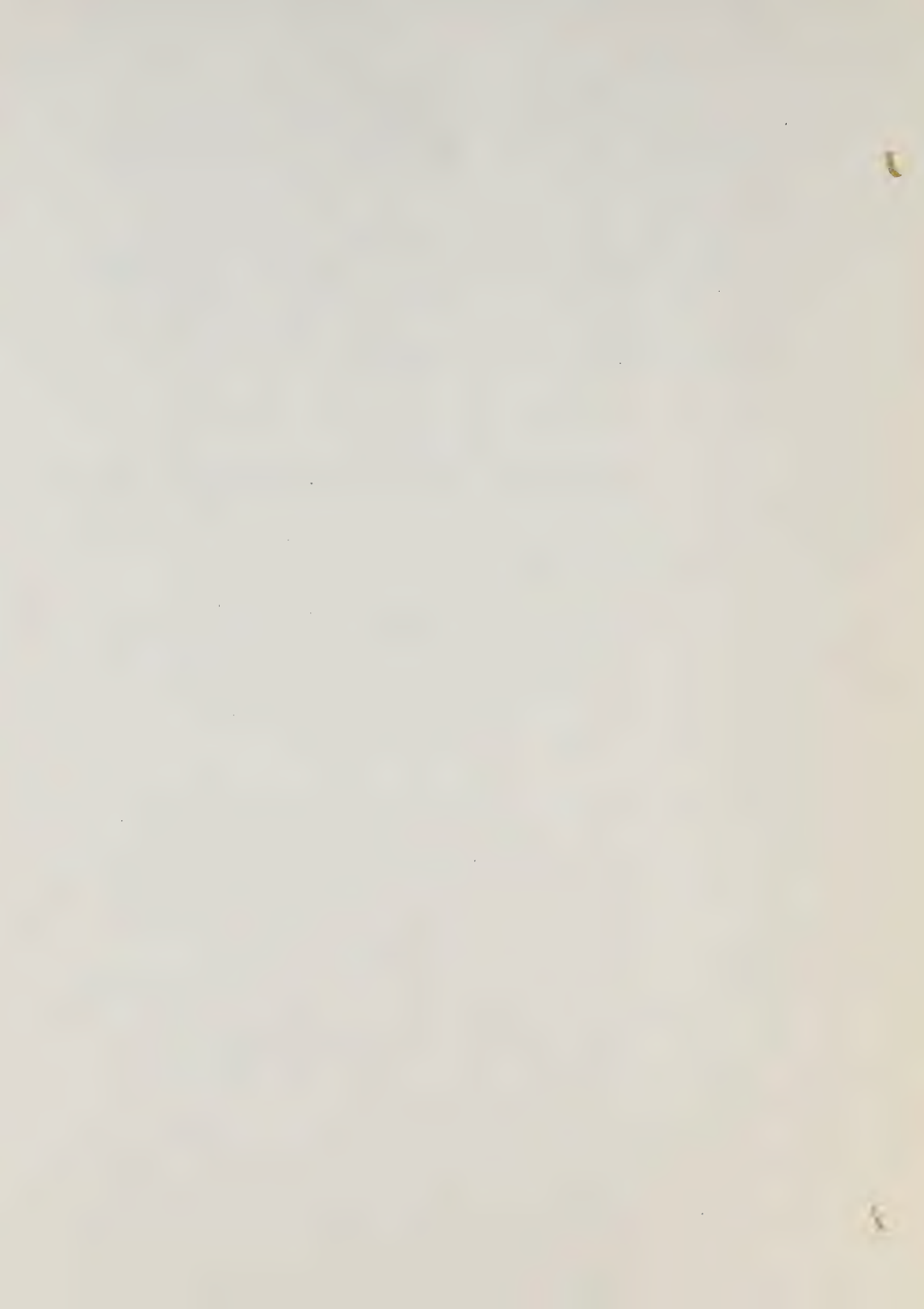
The Select Committee on the Municipal Act and Related Acts is respectfully asked to consider the following recommendations:

- (1) That the Act be amended to forbid the sale of memorials by non-profit corporations which do not have power to carry on a trade in such memorials.
- (2) That the Regulations be amended so as to remove any possible inference of authority, power or capacity in such corporations to carry on such trade.
- (3) That the opinion of the law officers of the Crown be taken as to the propriety of action at law to prevent the carrying on of such trade and as to the propriety of legislative action to terminate the corporate powers of corporations which are exceeding those powers as defined in the incorporating Acts.

All of which is respectfully submitted.

DATED at London, this 12th day of November,
A.D. 1962.

THE MONUMENT BUILDERS
OF CANADA



1. Municipal Legislation,
Facilities Buildings,
TORONTO 2, Ontario.

1. This brief is submitted by the Motion Picture Theatres Association of Ontario which has a membership representing 2,9 Theatres in the Province of Ontario which are open and in operation at the present time. The membership of this Association represents a substantial majority of all open Theatres in the Province as indicated by the fact that the present number of Licensed Theatres in operation in Ontario is 322.

Schedule 1 hereto shows the number of Theatres (other than Drive-In's) in operation in Ontario during the period from 1950 to 1962. It will be noted that the peak number of 441 was reached in 1952. Since then the number has declined in 1962 to 322 or 40% during the 10 year period.

Schedule 2 hereto shows that during the period from January 1, 1952 to September 1, 1962 237 Theatres in Ontario have been closed. Of these not less than 98 have been converted to other than theatre use or demolished.

When it is recalled that expensive special features are required in a building which can be licensed as a motion picture theatre and that costs of construction and equipment are high, it will be evident that the industry is in serious difficulty. The great increase in television facilities is believed to be the principal cause. Few homes are now without one or more television sets.

Due to the economic situation confronting them as a result of the advent of television, many theatres have closed. In 1961 alone there were 27 such closings. In 1962 there have been eleven closings to date.



7
been increasing and the provisions in the Assessment Act for granting relief by way of abatement of taxes have not generally been available to theatre owners.

2. Section 131, sub-section 1 of the Assessment Act provides: "An application to the court of revision for the cancellation, reduction or refund of taxes levied in the year in respect of which the application is made may be made by any person: (a) in respect of a building that was vacant three months or more during the year."

3. Sub-section 13 (1) (g) lists exceptions which do not qualify for a cancellation and provides: "a building or part of a building, unless it remained unfurnished during the period in respect of which the application is made." Sub-section 13 (1) (h) refuses relief to "a building equipped and adapted for use for a limited and special class of occupancy only." Refunds are usually granted covering vacancies in apartment buildings and vacant factories also qualify for a refund. Applications made for cancellation in connection with closed theatres have usually been refused and this is considered to be unjust and discriminatory.

4. Many closed theatres have been razed or converted to other uses. In some cases, the seats have been removed and in such cases it would appear that the exclusion in (g) does not apply and a cancellation should be allowed. So far as information is available to us, Schedule 2, the list of the theatres which have been closed in the period, contains a note of the present condition and use of the premises where it is known. The list is in three columns, the first being the name of the place where the theatre formerly operated, the second being the name of the theatre, and the



and the same day the Act was passed.

Most applications referred have been for the use of (b) "a building equipped and adapted for a special occupancy or occupancy". There are many uses that can be found for a closed motion picture theatre with seats and such uses are not related to the occupancy of a motion picture theatre. Some examples are meetings, bingo games, church services, political rallies, lectures, professional and amateur stage presentations, dance and musical recital, originations of radio broadcast. We maintain that a theatre is not really covered by paragraph (b) as being limited to a

The Act is intended to give some economic relief. It seems to defeat this purpose that in order to qualify for the cancellation, the applicant must remove the seats, which then prevents him from utilizing the building as a theatre in the future, or using it for some of the other types of occupancy listed above (in which event he would be entitled to and could pay taxes without the need for a request for a refund). In one case the seats were removed from the theatre and subsequently the building was leased to a church. New seats, similar to the old, had to be purchased in order to make the building suitable for this occupancy.

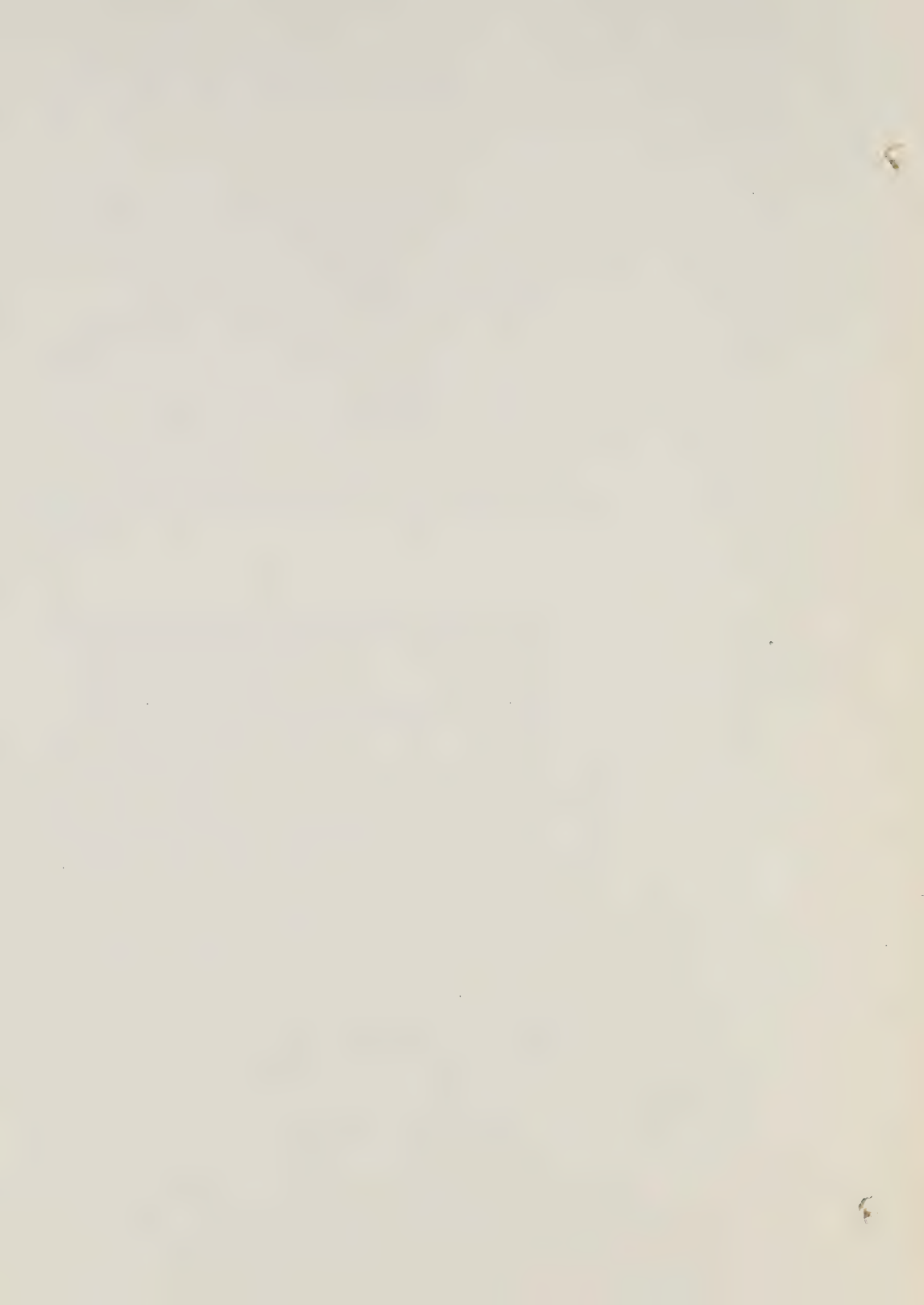
It may be asked why it was considered desirable to enact paragraphs (g) and (h). One may properly offer the suggestion that (g) was designed to cover the case of hotels, motels and tourist homes where always the use of accommodation is not continuous and often is at a limited percentage of that adequate to produce a satisfactory return on investment and is sometimes required in the case of existing resorts and hotels. It is proper

buildings designed to be used only as certain structures. For example, tobacco curing barns, canning factories, fish drying sheds, to name a few.

7. Theatre seats are affixed to the floor and can only be removed with considerable expense, and then have little alternative use. On the other hand, the furniture of a hotel, for example, can easily be removed and the chairs, tables, beds and bedroom furniture can be stored and still used for other purposes, or placed back in the hotel. Here again, for this reason, the reference to "unfurnished" represents an additional hardship on a theatre which is in a peculiar position.

8. It is submitted that paragraph (h) can be subject to different interpretations. As a matter of fact, there has been a great deal of difference of interpretation in connection with paragraph (h). In some cases cancellation is allowed on theatres with seats, and in some cases without. If paragraph (h) is interpreted as the application of the word "unfurnished", it would appear that this wording is

too broad and sweeping, and in respect to theatres which have had to close because of a decline in their business, it is unfair. Further, it is submitted that all buildings are equipped and adapted for a limited and special class of occupancy. A house is built for a limited and special class of occupancy, the same with a warehouse and factory. It is not clear what (h) is really intended to cover, but an argument could be put up that each and every building is excluded by (h) as not qualifying for a cancellation because it is adapted for a special class of occupancy. Even a factory comprised of four walls might be said not to qualify. Even



if it did, if the building were to include some machinery for the making of toys, the exception in (g) might apply. Theories used for one type of occupancy are easily usable for other purposes by other occupants, and by the same token theatres can and have been converted to bowling alleys, billiard academies, dance studios, gymnasiums, roller skating rinks, night clubs, social club rooms, supermarkets and stores, banquet halls, amusement arcades, restaurants and office buildings.

9. It is our request that the discrimination referred to above be eliminated. Paragraphs (g) and (h) first appeared in the Municipal Code of 1911 and have since been amended many times. They were ever enacted. Furnishing a building puts no extra burden on the municipality. If it has any significance at all, it is that the probability of continued vacancy is lessened, but certainly not that the plight of the owner is less deserving of relief than it would be if he removed or destroyed the furnishings. A building equipped and adapted for a limited use only likewise does not increase the municipal burden. It only makes the situation of an owner who has taken an unusual risk more unfortunate, when his venture fails, than he would have been if he had not tried to provide an unusual facility for the community. In our submission there is no sound reason for retaining the exceptions in paragraphs (g) and (h).

10. It is submitted that all proper cases of limitation of the exception created by paragraphs (g) and (h) could be taken care of and justice done to the original idea if the following were added to section 131 as a new sub-section (13a):

"(13a) A building is not furnished merely because seating accommodation remains installed therein and unused equipment and fixtures have not been removed, nor is a building



subject and adapted for use for a limited and special class
if more than one use thereof is shown to
be possible and to have been made in respect of similar
the municipality in which it is situated

11. There is one other aspect of this problem, namely
that the motion picture business is not duplicated by any
other business in connection with its need for relief. Many
theatres have been closed so that other theatres in the area
can continue to supply the necessary entertainment facilities.
In some municipalities, the theatre is the only source of
entertainment. Two examples of this are the isolated areas
where one theatre open and one theatre closed. It is important
for the community that the one theatre remain open. Many
communities have given financial help to the one theatre of
the town to stay open. Further, although other types of
business may be depressed in certain areas, there is no
counterpart to the motion pictures theatre position since
theatres have been closed all over Ontario. Accordingly,
what is done to ease the position of the theatre business
will not necessarily be a subject of complaint from other
businesses. Further, the large number of theatre closings
proves conclusively that the industry is depressed and needs

To sum up our presentation:

- (a) Refunds are refused to closed theatres and this is considered unjust and discriminatory.
- (b) The theatre business is depressed due to the advent of television; many theatres throughout the whole of Ontario have closed and the industry needs the help by way of rebates to closed theatres.
- (c) In many cases theatres are closed which were in direct competition with other theatres, which can then remain



have been closed have been converted to other uses and this results in taxes being paid.

(e) Fixed seats have been removed and rebates have been allowed in a few cases. It should not be necessary to do this because it means in many cases that the building cannot be used for other occupancy, such as an auditorium. Further, it is not as easy to remove fixed seats as it is to remove movable furniture in other types of buildings.

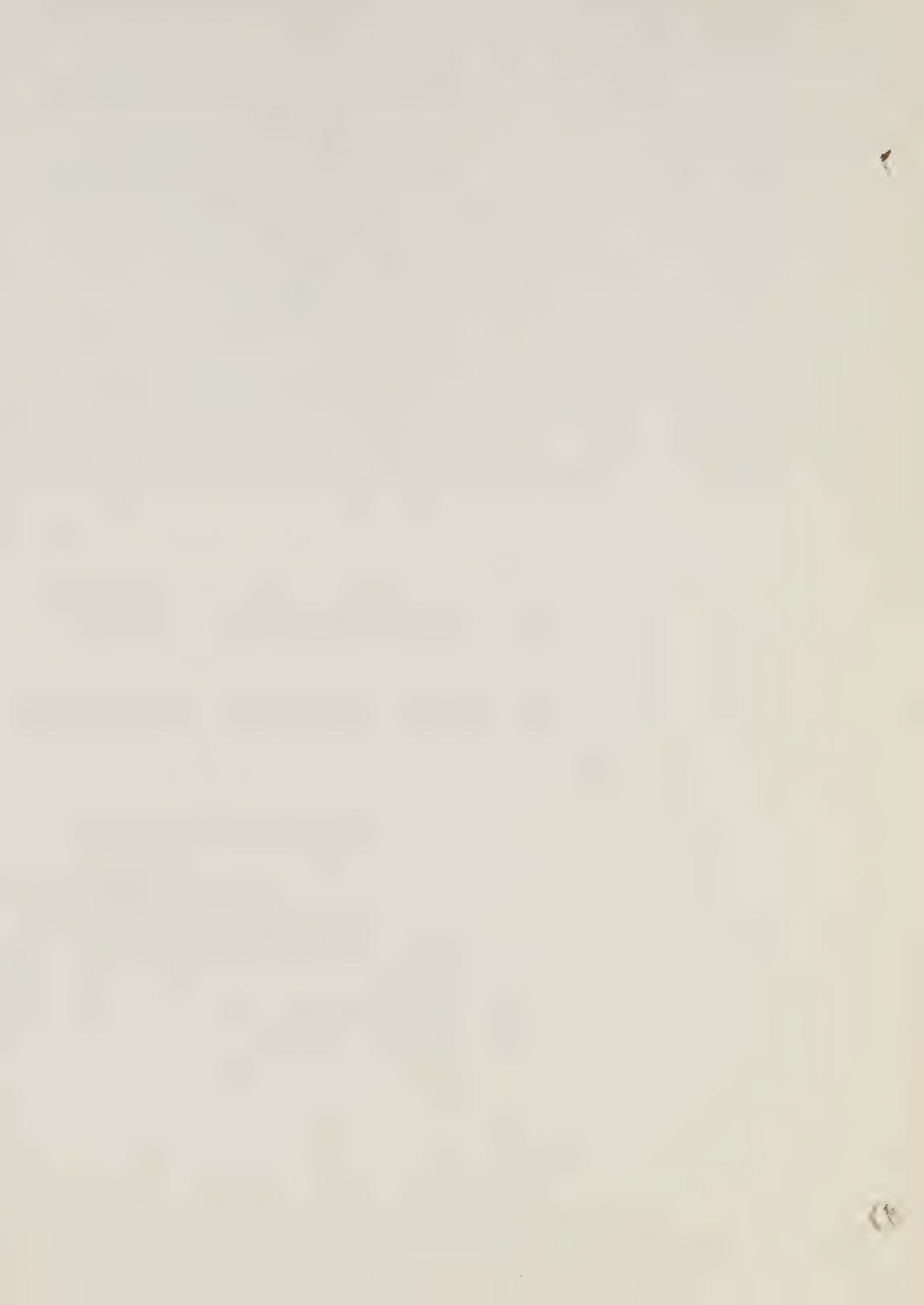
(f) The meaning of paragraph (h) is not clear. Almost all buildings are equipped for a limited class of occupancy, and it is clearly discriminatory if theatres are in the greater majority of types of buildings that do not qualify for refunds.

We humbly request either:

1. the deletion of paragraphs (g) and (h) of sub-section 13, or
2. the enactment of a new paragraph 13a as set out above in number 10.

Respectfully submitted,

Arch H. J.
Executive-Secretary.



THEATRE SEATING

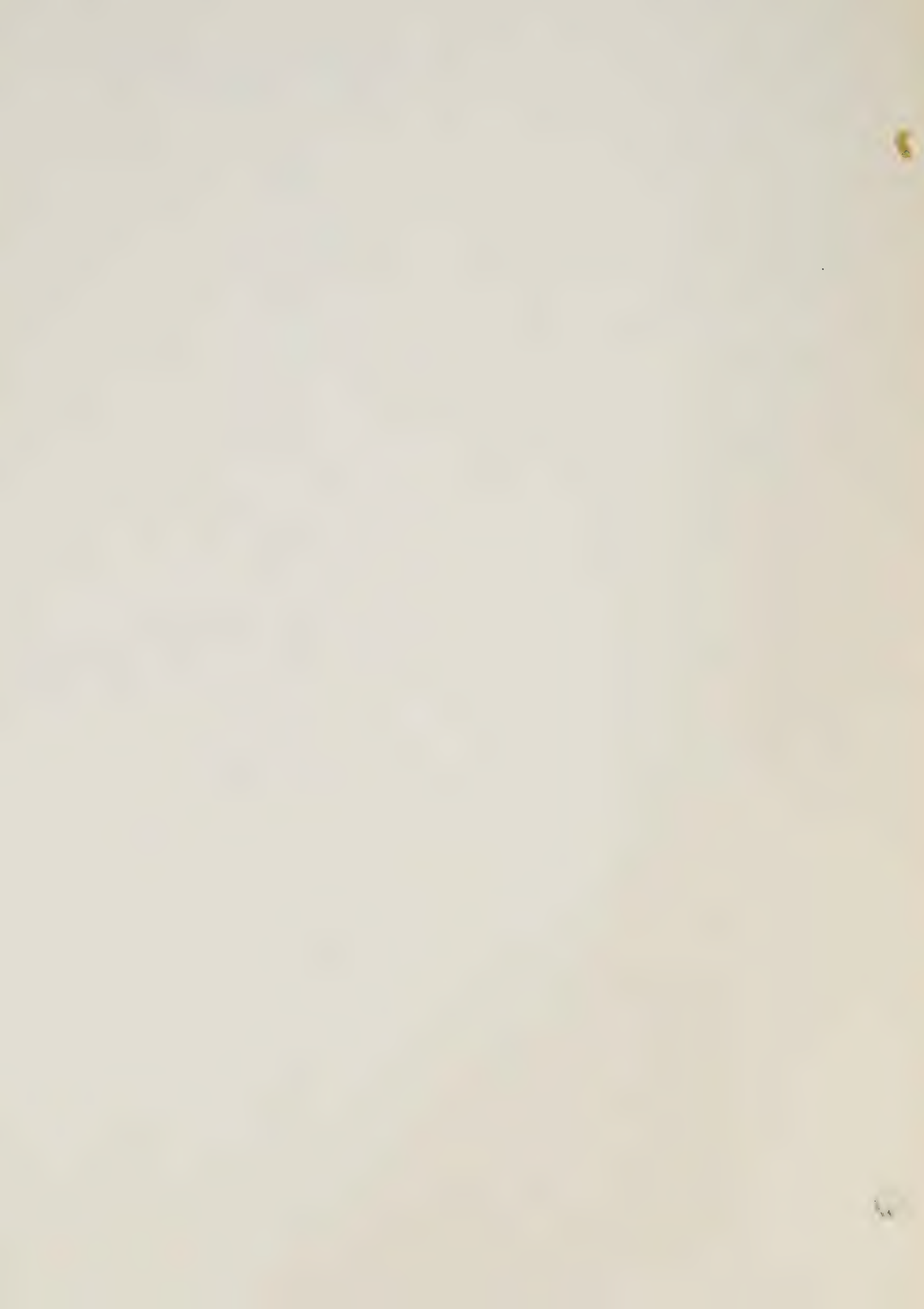
1954-1955

1954	380
1955	380
1956	380
1957	380
1958	380
1959	380
1960	372
1961	350 (Estimate)
1962	322 (Per Theatre Department Province of Ontario)

Drive-In Theatres are not included in above.

AK:SM

A. MacCunn



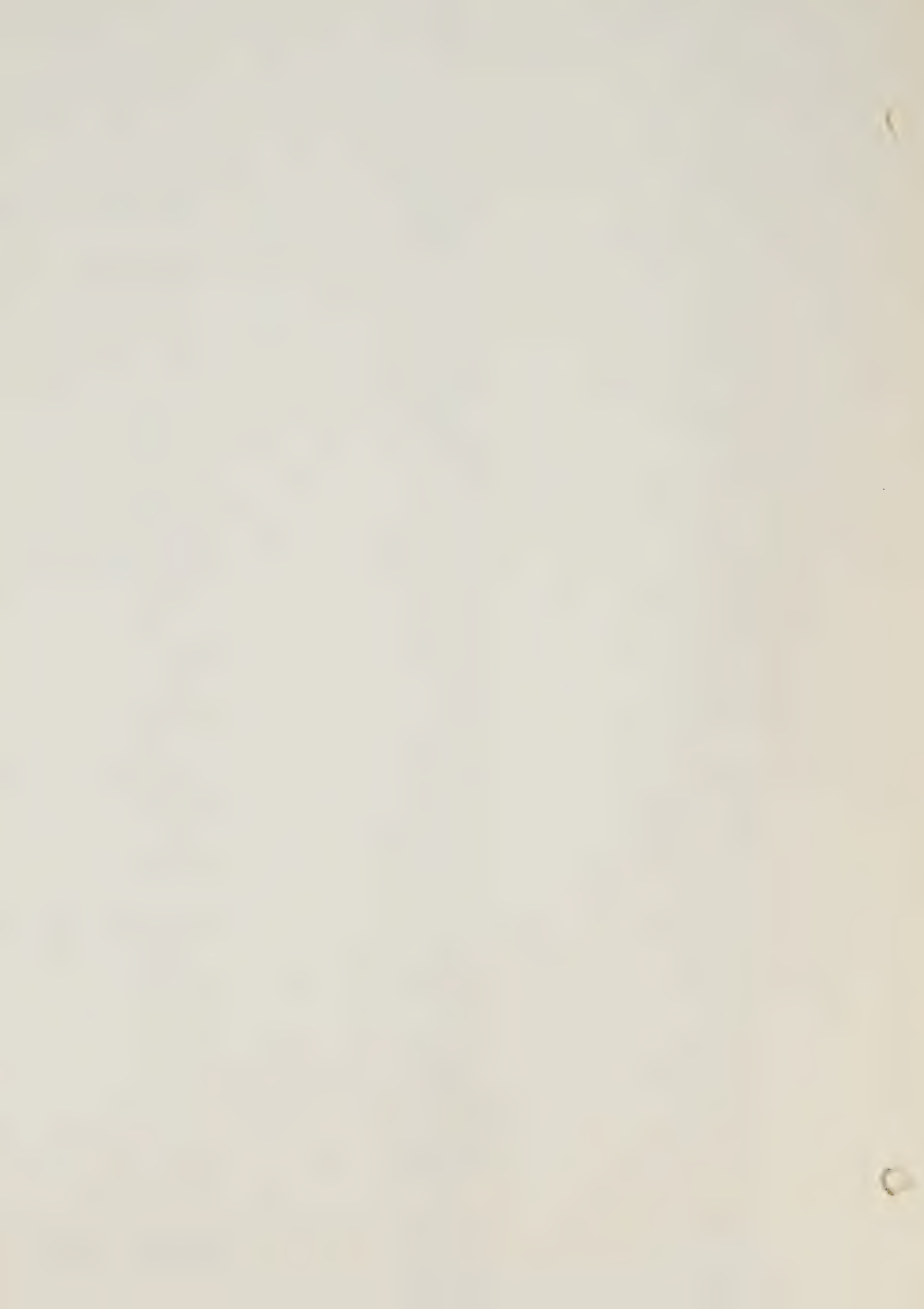
		Rolling Alley
		Bowling Alley
	ROYAL CAPITOL	Bowling Alley Jewellery Store
	GRAND BEACH	Restaurant
	M. CANTARY TEMPLE	Store
	ROXY R-NE RENNETT	
	JENEL SAMOY ROXY RECENT BANK ROXY COMMUNITY ROXY CAPITOL EMBASSY ROXY RIO BEACH	Bowling Alley Store Parking Lot Town Hall Newspaper Bowling Alley
	CAPITOL BAYVIEW MAJESTIC ROXY DELL	Store Supermarket
	BAYVIEW STRAND REC	Store Store
	EMPIRE EMPIRE EMPIRE EMPIRE EMPIRE EMPIRE EMPIRE	Non-theatrical purposes Parking Lot Non-theatrical purposes
	EMPIRE EMPIRE EMPIRE	
	EMPIRE EMPIRE EMPIRE	Fire Hall office
	EMPIRE EMPIRE EMPIRE	Demolished - Simpsons Discount Store
	EMPIRE EMPIRE EMPIRE EMPIRE EMPIRE EMPIRE	Store Warehouse Demolished C.H.T.V. Studio Demolished Club

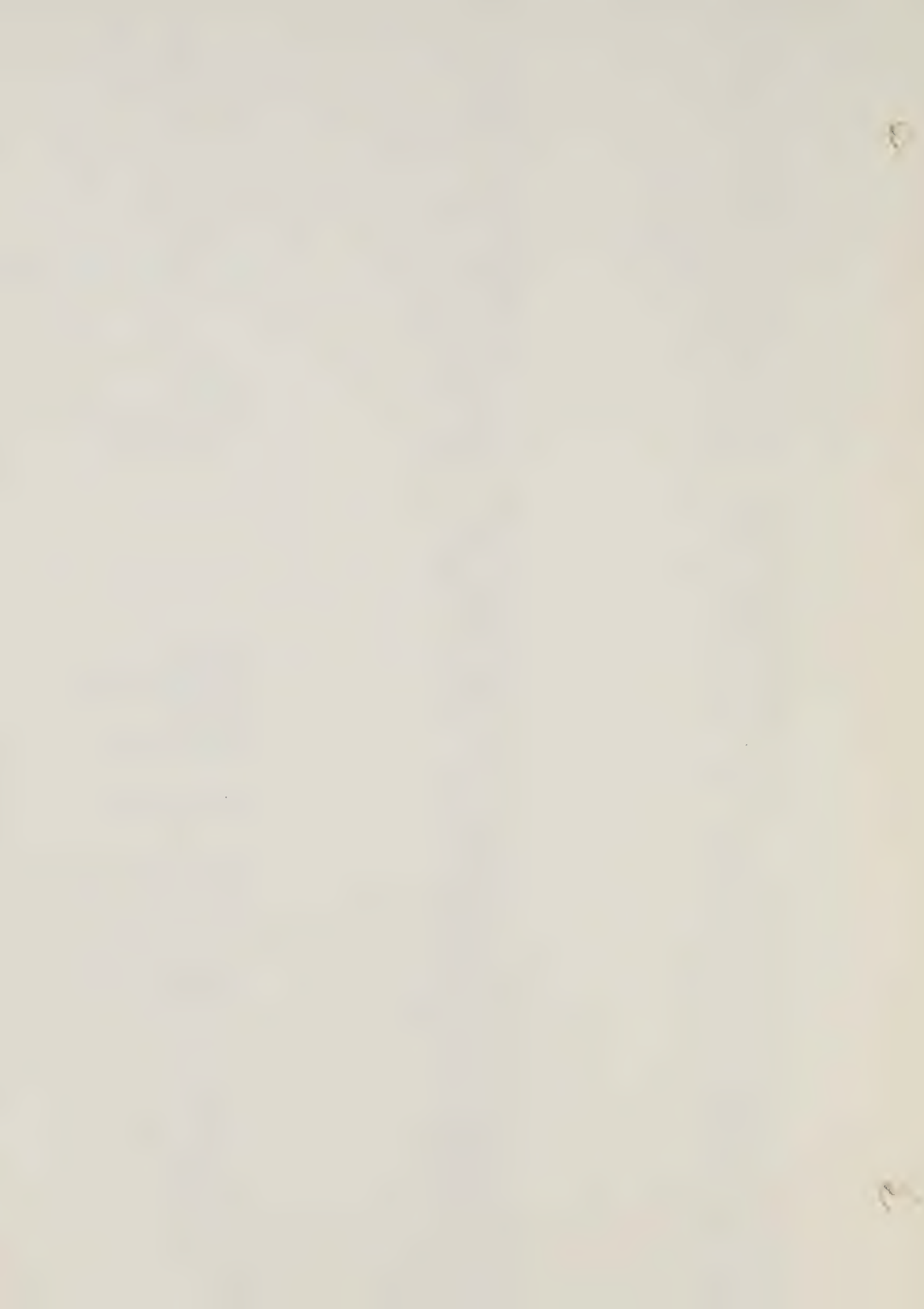


PARKS
PARK HILL
PETH
PETERBOROUGH
PETERBOROUGH
PETERBOROUGH
FICTION
PORT ARTHUR
PORT ARTHUR
PORT CARLING

CAPITOL
FOX
PERTH
CAPITOL
CENTRE
REGENT
REGENT
LYCEUM
COLONIAL
ISLAND PARK

Offices
Stores





Church

SUBMISSIONS by the MUSKOKA LAKES ASSOCIATION to the Select Committee, of the Legislative Assembly of Ontario, on Municipal Affairs

THE MUNICIPAL ACT

In an increasing number of districts in Ontario, summer residents account for a very substantial portion of the local Municipality's assessment and tax rolls. For example, in the United Townships of Medora and Wood in Muskoka, 75% to 80% of the taxes are paid by summer residents.

It is submitted that such summer residents should have, not only a vote on Municipal affairs, but representation on Council. This is effectively prevented by (a) Sec. 43(3) of the Municipal Act, which sets November 15th as the earliest possible election date - and therefore, due to inclement weather and distances, effectively disenfranchises the majority of tax payers: (b) Sec. 34(1a) which appears to disqualify most summer residents from being ever eligible to run for Council.

The main objection to election of a Council at an earlier date than November 15th, is that the Municipality's fiscal year does not end until December 31st, and that a "lame duck" Council should not be longer than 6 or 7 weeks in office. There are several possible remedies for this, but one of the most feasible is to have the end of the Municipality's fiscal year be near to or even coincide with the Province's fiscal year, namely, in the Spring. If this were done, and Municipal elections in the late Spring became the custom, much of the effects of mid-winter weather and distance would be overcome.

The following specific amendments are suggested:-

Sec. 34 (1a) - by adding in the first line, the words "or in the Municipality residing/for a period of at least two months of each year in a summer residence assessed for an amount of at least \$1,000.00."

Sec. 43(3) - by striking out the words "not later in the year than the 1st day of November".

Sec. 44(1) by striking out the words "from the 15th day of November to the 2nd day of January" and substituting "from the 1st day of May to the 30th day of June."

...the following amendments are suggested:-
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It is submitted that such summer residents should have, in
only a vote on Municipal affairs, but representation on Council. The
is suggested provision (a) that, (b) that the Council should
and provision (b) to the effect that the Council should
that, and the Council should and provision, effectively
provision the subject of the Council (a) that, (b) that the Council
to annually meet in the month of June and should be held
Council.

The main objection to election of a Council as an earlier
date than November 15th, is that the Municipality's fiscal year does
not end until November 1st, and that a "fiscal duck" Council should
be larger than 6 or 7 weeks in office. There are several possible
remedies for this, but one of the most feasible is to have the end
of the Municipality's fiscal year be near to or even coincide with
Twinsburg's fiscal year, namely, in the Spring. If this were done,
and Municipal elections in the late Spring became the custom, much of
the effects of mid-winter weather and distance would be overcome.

The following specific amendments are suggested:-
Sec. 14 (a) - by adding in the first line, the words "or
in the Municipality
residing for a period of at least two months of each year in a summer
residence assessed for an amount of at least \$1,000.00.
Sec. 14 (c) - by striking out the word "not" in the

Section 53 would also need to be revised considerably.

It is also suggested that the principle of advance polls (Sec. 90) might well be applied to non-residents, either by a mail ballot, or by allowing for example, Medora and Wood Township to set up a special polling place in Toronto, where a majority of its taxpayers have their main residence. The latter power should, of course, be permissive only, not mandatory.

THE MUSKOKA LAKES ASSOCIATION

Hon:

Ray S. [unclear]

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U. P.

BRIEF
to the
SELECT COMMITTEE OF THE LEGISLATURE
on the
MUNICIPAL ACT (ONTARIO)
from the
NATIONAL CONCRETE PRODUCTS ASSOC.

B R I E F
TO THE
SELECT COMMITTEE OF
THE ONTARIO LEGISLATURE
STUDYING THE MUNICIPAL ACT
OF ONTARIO

From The
ONTARIO DIVISION OF
THE NATIONAL UNION OF PUBLIC EMPLOYEES

We shall endeavour, through the medium of this brief, to provide the Select Committee with the views of the Ontario Division of the National Union of Public Employees -- a reflection of the views of ~~eighteen~~ ^{23,000} thousand municipal employees in Ontario whom we represent -- in consideration of present restrictive regulations of the Municipal Act; and the manner in which these regulations constitute discriminatory legislation affecting municipal employees only. Our purpose in this presentation is twin-pronged, i.e. - to re-activate the thinking of your committee in relation to certain specific sections and/or sub-sections of the Municipal Act; and thereby, to hope for the interjection into your final report of recommendations which would amend the Act and thus alleviate, or remove entirely, the restrictions which have relegated the position of municipal employees to that of second class citizens.

ITEM I.

COLLECTIVE BARGAINING RIGHTS: REFERENCE: LABOUR RELATIONS ACT, SECTION 89.

You will recall that in the year 1958 a Select Committee of the Ontario Legislature was appointed and subsequently convened in meetings covering a span of many months for the purpose of studying the Ontario Labour Relations Act. In their report, the Committee submitted an unanimous recommendation that the then Section 78 (Now Section 89) be deleted from the Labour Relations Act in its entirety. Their recommendation was premeditated by the knowledge that at any time a municipality could invoke this particular section and deprive any or all of the employees of the municipality of the provisions and protections of the Labour Relations Act.

We would hasten to point out that we are cognizant of the fact that you are not, in the course of your deliberations, considering the Labour Relations Act or amendments thereto; but in order to provide municipal employees with the protection of collective bargaining rights, we suggest that the Municipal Act should be amended to include a clear declaration giving

municipal employees the same bargaining rights as other employees in the Province. An addition to the Act, something along the lines of the following, would override Section 89 of the Labour Relations Act:

"For the purpose of every Act or regulation concerning wages, hours and conditions of work, trade unions, labour relations or any other matter governing employment, and subject to the provisions thereof, every officer, servant and employee of a municipality, as defined in the Department of Municipal Affairs Act, shall be deemed to be an employee, and any municipality, as defined in the Department of Municipal Affairs Act, and which is responsible for the payment of wages to any officer, servant or employee, shall be deemed to be an employer."

In justification for this proposed addition to the Municipal Act, may we reiterate the following reasons which have been presented in previous briefs:

(a) Section 89 is discriminatory in that it applies only to the municipal employees' segment of the labour movement.

(b) Section 89 has represented the determining factor in many strikes for union recognition.

(c) Section 89 can be cited by management as a threat to Unions during negotiations or at any other time.

(d) Section 89 can never serve any useful purpose in the promotion and maintenance of fair, equitable and harmonious relationships between municipal employees and municipal employers.

(e) The Labour Minister for Ontario has stated that Section 89 should be repealed; and his expression should certainly lend credulity to our claim for protection of bargaining rights.

(f) The Select Committee referred to earlier recommended the deletion of Section 89 (78).

(g) Public opinion, expressed by those people who realize the possible ramifications posed by the presence of Section 89, favours its repeal.

Until recently there were two provinces in Canada which placed this restriction on union recognition of municipal employees. However, in the last session of the Legislature in New Brunswick, this section of the Labour Act was repealed, leaving Ontario as the only Province in Canada which still discriminates against the municipal employee. Your committee is provided with the rare opportunity of off-setting an article in legislation that is possessed of incalculable detrimental potential.

Because of the very serious nature of the problems presented by Section 89, we are going to be presumptuous enough to ask this Select Committee to give consideration in your final deliberations to the brief presented to the Select Committee which was established to study the Labour Relations Act of Ontario ... a brief prepared and presented by the National Union of Public Employees.

In summation of our proposal for this proposed amendment of paramount importance we offer the following two quotations:

No.1. From the brief of the Association of Ontario Mayors and Reeves to the Select Committee on Labour Relations which was presented on April 21, 1958:

"There is no objection on behalf of municipal corporations to the organization of their employees for the purpose of collective bargaining regarding the regulation of relations between the employees and the corporation."

No. 2. The full recommendation of the Select Committee on this point:

"Section 78 (now Section 89) of the Labour Relations Act provides that any municipality may pass a by-law taking the municipal employees out of the Act. This section has caused a great deal of disturbance among municipal employees in that it has deprived them of the rights of certification, negotiation, and conciliation enjoyed by employees in industry generally, and as a matter of fact, this section has been the cause of numerous work

stoppages of essential services which would not have taken place had the collective bargaining process proceeded along normal channels.

It is the recommendation of the Committee that Section 78 of the Labour Relations Act be repealed."

ITEM II.

NO CONTRACTING OUT OF CIVIC OPERATIONS. REFERENCE: CHAPTER 243, SECTION 388, (1), PARAGRAPH 84.

Section 388, Paragraph 84 of the Municipal Act permits a municipality to contract out its garbage collection and the subsequent problems and ramifications of such a move are probably familiar to the members of your committee. As an example, one of the first problems encountered would, in all likelihood, be that of a serious labour-management dispute, -- which could have far-reaching effect on all of the civic services - and especially so if a strike were to materialize.

Another effect would be that of the increased cost to the municipality through contracting-out; for it is the rule rather than the exception that services, which were formerly provided by civic employees but which are suddenly provided by a private contractor, increase appreciably the cost factor to the municipality. If, however, there is no apparent increase in cost, then the other alternative would prevail -- services which are sub-standard to those formerly provided by the municipality.

"Why?" you may ask, and there would be justification in the posing of this the most common of questions. May we endeavour to provide an answer. If the contracted-out work has the same degree of planning and close supervision as is supplied by the municipality, and if the employees of the contractor are paid on the basis of a Fair Wage By-Law for the area, and if you add the cost of the profit to the contractor (which profit must exist); then the total over-all cost of the service must, of necessity, be higher. If, on the

other hand, the planning, supervision and fair wages are not present (regardless of the ever-present profit factor), then the contracted-out service must, of necessity, be sub-standard.

One final thought must be expressed about this particular section of the Act -- the thought, simply, is that any municipality can, at any given moment, remind unions of the right of management to contract out these services; thereby taking advantage of a situation which imposes an additional burden upon a negotiating committee, whose main concern is in fulfilling a commitment to negotiate a just and equitable settlement for the union members whom they represent. There is an apparent need for amendment to the Act in the matter of contracting out a need which must be answered.

ITEM III.

MUNICIPAL OR PROVINCIAL FAIR WAGE BY-LAW.

In those instances where a municipality is required to contract out certain construction work (i.e. - work which is not usually done by civic employees -- e.g. - building of new sewers) the employees of the sub-contractor should be paid a fair wage. Some provinces, in their Municipal Act, have established a Provincial Fair Wage Schedule which governs the minimum rates to be paid to employees of contractors engaged in municipal local improvement works programmes and other associated public works projects -- the rates generally being commensurate with the rates paid in the area. In this vein, we should like to quote the following section from the British Columbia Municipal Act:

"Every contract made by a municipality for construction, remodelling, repair or demolition of any municipal works, shall be subject to the condition that all workmen, mechanics, artisans and labourers in the employ of the contractor, sub-contractor or other person doing or contracting to do the whole or any part of such work shall, during the continuance of the work, be paid such wages and remuneration as are generally accepted by the Provincial

Government pursuant to the "Public Works Fair Wages and Conditions of Employment Act" and which are generally current in each trade for competent workmen in the municipality, etc."

Undoubtedly a similar clause in the Ontario Municipal Act would be helpful; however, even if it were a reality, it would be weakened by the fact that the present provincial fair wage schedule cannot be construed to be a fair and equitable schedule -- predicated upon the knowledge that it is not revised frequently enough.

We would also commit to your consideration a second proposal -- an alternative to the above quoted proposed addition to the Act -- whereby the Act would provide that municipalities over 50,000 population shall adopt a Fair Wage Schedule of their own; and we also recommend the existing schedule in Toronto could be used as a model regulation. Certainly, it should also follow that the application of a municipal Fair Wage schedule should encompass any Provincial Works project as well. The responsibility of eliminating the exploitation of employees of private contractors engaged in Public Works projects, but who are not afforded the protections to be found in a collective agreement, must be borne either by the municipality or the province. There is a positive need for a Fair Wage Schedule within each of the municipalities and this need must be answered.

ITEM IV.

LIMITATIONS ON SICK LEAVE: REFERENCE: CHAPTER 243, SECTION 386, PARAGRAPH 49.

Ontario, to the detriment of the welfare of civic employees, has the dubious distinction of being the only province in Canada placing, what we term, the fifty percent limitation on sick leave retirement gratuities. We quote, in part, from Section 386 (49) of the Act:

"..... provided that on the termination of his employment no employee shall be entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his

credit, and in any event not in excess of the amount he would have earned in six months at the rate received by him immediately prior to termination of employment."

We would be derelict in our duty during this hearing if we neglected to present to you our very adamant viewpoint on this article of legislation. It might suffice to say, simply, that we regard this article as "a deprivation of the right to negotiate a collective agreement;" but in order that you may understand, more clearly, our position, we must make mention of certain facts:

(a) This limitation precludes any possibility of a union, representing civic employees, from the privilege of even attempting to negotiate a better severance settlement with a municipality; yet time and time again, at the bargaining table, our people are reminded that "sick leave plans" are fringe benefits -- reminded too of the cost to the municipality in providing these fringe benefits. In many instances this claim by management constitutes misrepresentation of fact, since many employees, upon severance from the municipal employer, do not receive even a single day's pay regardless of their length of service or their accumulated gratuities.

(b) This limitation discourages many civic employees from attempting to accumulate a substantial reserve of sick leave credits -- and by this discouragement nullifies, to a noticeable degree, the conscientious attitude with respect to regular attendance at work. This is evidenced even in senior employees who adopt the attitude, and probably rightly so, that after 25 or 30 or 35 years of loyal service to a municipality, they can realize only 130 days salary; notwithstanding the fact that they may have to their credit some 400 to 500 days in accumulated sick leave.

We would propose, therefore, that this section be amended to provide that any employee, upon severance, be paid for all sick leave credits in his name; and in addition, in the event of the death of the employee, that such

sick leave gratuities be paid to his estate. It would seem to us that any municipality would realize that the immediate reaction, by all of its employees, to such an amendment, would be one in which they would strive for better attendance records, thereby minimizing, if not eliminating entirely, the present abuses of sick leave plans. The end result to the municipality would be a much higher standard of public service to the community which it serves -- certainly a worthy exchange for paying an employee the remuneration to which he is entitled. We should like to be able to anticipate this proposed revision to the act; but we shall be satisfied to leave the decision in your hands.

ITEM V.

LIMITATIONS ON EMPLOYER CONTRIBUTION TO FRINGE BENEFITS: REFERENCE: CHAPTER 243, SECTION 386, PARAGRAPH 49A.

We would draw your attention to the following brief excerpt from the aforementioned Paragraph 49A: "No by-law under this paragraph shall authorize contributions by the municipality in excess of the total of those made by the employees." As in the case of sick leave benefits no other municipal act in Canada limits the amount of the employer contribution to the fringe benefits itemized in Chapter 243, Section 386, Paragraph 49A -- those benefits being Group Life Insurance; Group Accident Insurance, Group Sickness Insurance, Hospital, Medical, Surgical, Nursing or Dental Services. We again point out that this paragraph should be amended to allow municipalities to contribute more than 50% of the cost of these items. Employees of private enterprise are not hampered in their negotiations by these restrictions; and there are many instances of 75% and 100% of the costs involved being underwritten by the companies concerned. While it was true, at one time, that the fringe benefits enjoyed by municipal employees were in excess of those enjoyed by workers in industry, such is no longer the case. The 50% limitation placed on employer contributions to fringe benefits and pensions

for municipal employees has now resulted in the fact that many industrial workers enjoy the advantage of greater fringe benefits in addition to higher wage rates. What possible explanation can justify this discrimination against the municipal employee? What possible explanation can justify the fact that there has not yet been a revision to the Municipal Act to provide equality of collective bargaining rights for civic employees? What possible explanation could justify a report that did not include such a proposed amendment?

ITEM VI.

EMPLOYER CONTRIBUTION TO DRUG INSURANCE: REFERENCE: CHAPTER 243, SECTION 386, PARAGRAPH 49A.

The above noted paragraph, which we discussed at some length, in our presentation of the previous item, does not presently provide for coverage of employees for "prescription drugs" under the auspices of such a plan as Prescription Services Incorporated. We doubt, very much, that we would need to remind you of the exorbitant cost of drugs, for this fact has become widely known and discussed as a result of a Royal Commission investigation into the prices of drugs and the manner in which these prices are determined and affixed. It would be safe to say that no one has escaped the urgent need for prescription medicines, and it would be equally safe to say that no one has escaped the sudden realization that they are hard-pressed financially for having had to purchase the required drugs. How often can you recall personal circumstances of your own, in which the purchase of a half-dozen or a dozen capsules has represented a very sizable expenditure? However, inasmuch as drugs are often required to ward-off or cure what could be a serious affliction, then procure them we must -- regardless of the cost! Who would deprive a wife or a child of the necessary anti-biotics to safeguard their lives? Certainly not one person in a million, or ten million either, and for this society can be truly thankful! The procurement of drugs

is so much a part of medical care, that it is difficult for us to understand why the almost prevalent need for drugs shouldn't be an insurable factor. This, is in effect, exactly what we are proposing -- that to the list of benefits provided in Paragraph 49A should be added "prescription drugs" to accommodate the aforementioned Prescription Services Incorporated plan or any similar plan. It would be a great relief, indeed, to many people, to know that their drug needs would be supplied at any time, through the nominal cost of a monthly premium; but this will not be possible until such time as our proposal is effected.

ITEM VII.

TIME LIMIT FOR SETTING MUNICIPAL BUDGETS.

It has too often been experienced by civic unions during negotiations which have extended over many months, that the Council, or Council's representative, will state that the municipal budget for the current year has been set, and that no provision has been made for any adjustments in salary rates. We can appreciate, fully, the necessity of a municipality setting its budget and mill rate as early as possible in any year, but this necessity should not eliminate the obligation of the municipality to provide for possible salary increases in the year of the negotiation of a new contract with its employees. The British Columbia Municipal Act provides that a municipality must take into consideration any negotiations which are in progress and we quote, in part, from that act:

"When arbitration proceedings are taken respecting salaries, wages and working conditions and any award is made in consequence whereof the municipality is required to expend monies, such arbitration proceedings shall be concluded and the award made and published on or before the fifteenth day of April of the year in which the award is to come into effect."

The Act further provides:

"On or before the fifteenth day of April in each year, the Council shall cause to be prepared the annual budget of the current year (which) shall be adopted before the fifteenth day of May."

The effect of this section is that a municipality is required to provide the total amount of the wage request in the event that negotiations are not completed at the time of preparation of the budget. An arbitration chairman has ruled "that the ability to pay is not a concept when dealing with municipal employees." Yet by establishing a budget which does not provide for salary increases, a municipality has endeavoured to place themselves in the favourable position of being "unable to pay". There have been instances in recent years, where a municipality has made no such provision; and after conciliation proceedings have awarded a salary increase to the civic unions, the municipality has found themselves involved in a strike -- a strike which could conceivably have been avoided. This proposed amendment is not an attempt to pre-negotiate new rates; but rather, is an attempt to provide assurance that the necessary funds will be available, if and when, a union is able to properly justify and substantiate its requests.

ITEM VIII.

RIGHT TO HOLD MUNICIPAL OFFICE: REFERENCE: CHAPTER 243, SECTION 56, PARAGRAPH I.

The above noted reference is to that particular paragraph (E) which states:

"The following shall not be eligible to be elected a member of a council or be entitled to sit or vote therein; an assessment commissioner, assessor, a collector of taxes, a treasurer, a clerk, or any other officer, employee or servant of the corporation of a municipality;"

We cannot help but wonder whether or not the persons responsible for the original drafting of the Municipal Act could have possibly envisioned the deprivation of rights placed upon municipal employees with the institution

of this section. While we can realize some merit in the idea that a person should not be an employer and an employee at the same time, and therefore could not conceivably be a member of a council which employs him, we must, of necessity, point out that the all-embracing scope of this section even prohibits an individual from running for municipal office in the municipality in which he resides, notwithstanding the fact that his resident municipality may be separate and apart from the one in which he is an employee.

It is especially interesting to note that the Municipal Acts of other provinces are not as discriminatory as the Act in Ontario, for although they do disqualify a municipal employee from the Council which employs him, he would be free to run for office in another or adjoining municipality, providing, of course, that he is able to qualify on the basis of residency or tenancy, etc. If it is possible for one individual (a private businessman in this instance) to hold office as a member of a Public Utilities Commission in one municipality, and at the same time run for election as Mayor in an adjoining municipality, why then, shouldn't some serious consideration be given to the rights of municipal employees to hold municipal office?

There is also an additional need for clarification of, and amendment to the Act in another area -- that area being the one in which we find that in certain municipalities civic employees are prevented from acting as members of a Board of Education, a Library Board, a Board of Hospital Governors, etc., while at the same time, in other municipalities, they are afforded this privilege.

Certainly the interpretation and application of the Municipal Act of this or any other province should be uniform in each and every municipality governed by that act. Such is not the case in Ontario, but it should be!

ITEM IX.

PROTECTION OF EMPLOYEES' RIGHTS DURING ANNEXATION OR AMALGAMATION.

Our area of concern in this matter is centred around the realization that there is an ever-increasing rate of annexations in Ontario, due probably, in the main, to the increased rate of metropolitan development. We feel that there should be a protective measure incorporated into the Municipal Act which would provide for all municipal employees "the security of employment and the retention of all service and/or fringe benefits in a merged municipality."

You can visualize, undoubtedly, the potential displacement of persons from jobs which they may have held for many years and the resultant loss to them in dollars and cents, since they would be forced to withdraw from pension plans, life insurance plans, sick-leave plans, etc. -- forced to withdraw, unquestionably, inasmuch as there is no present provision for the transfer of these accumulated credits to any other employer entity unless, perchance, that employer entity happens to be another municipality.

This is a problem magnified in proportion in this time of very serious unemployment, when every possible effort must be expended to ensure the maximum in job security for employees, who might otherwise become what might be termed "displaced persons". The statement was once common that municipal employees were "permanent employees", and therefore should express no concern over job security. This is now, as it has always been, a complete fallacy, and some measure must be introduced to provide this job security and protection of employees' rights at the time of annexation or amalgamation.

ITEM X.

MUNICIPAL PENSION PLANS.

Municipalities in Ontario are permitted to pass by-laws establishing pension plans for employees under Section 386, paragraph 48 of the Municipal Act. Such pension plans must be in accordance with the regulations published

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by the Minister in the Ontario Gazette of August 15th, 1959. (Pension plans established before this date are not affected by the regulations).

Under section 34 of the Schools Administration Act boards of education may also establish pension plans for their non-teaching staffs but these must also conform with the same regulations which are laid down for the purposes of the Municipal Act.

It is the considered opinion of this Union that the limitations placed on municipal pension plans are far too restrictive and out of date. In the following, we wish to suggest methods by which the present regulations should be improved.

Limit in Past Service Credits

Where municipalities have been slow in establishing pension plans for their employees, the pensions for older employees are always inadequate. Therefore, the Regulations provide, as do most pension plans, an additional benefit in respect of past service.

Item 7 (a) limits the amount of this past service pension to an annuity of \$25. per year for each completed year of an employee's service prior to the commencement date of the plan. This limit has been set far too low. If, for example, a plan is ~~inaugurated~~ shortly before the retirement of an employee with twenty-five years service, his maximum annual pension under the regulations will be \$25. for every year of service. This amounts to \$625. per annum, or \$52. per month. Surely, this amount of pension is entirely inadequate for an employee with a long service record.

This Union recommends, therefore, that the limit for past service credits should be revised upward to \$50. for each completed year of service, to meet present day living costs.

Limit of Municipality's Contribution

As with other forms of fringe benefits, the present pension plan regulations limits the Municipality's contribution to half of the cost of the plan. We sincerely feel that this limitation should be removed.

One of the major significant changes in pension plans over the past number of years has been the increase in non-contributory plans, that is, plans financed entirely by the employer. The most recent analysis of this matter is revealed in the results of a Department of Labour survey conducted three years ago.

Proportion of Pension Plan Premium borne by
Employers for Plant Employees in Manufacturing
in Ontario, 1958 (a)

<u>Proportion of Premium</u> <u>Borne by Employer</u>	<u>Percentage of Total Employees</u> <u>Covered by Pensions</u>
Less than 50%	2.9%
50%	35.3%
51% to 99%	14.3%
100%	47.5%

(a) - "Working Conditions in Canadian Industry, 1958",
Department of Labour, Ottawa.

This table reveals that almost half of the industrial workers in Ontario who are in pension plans belong to non-contributory plans. That is, the employer pays the full cost. 61.8% of all employees receive benefits higher than those attainable by municipal employees under the restrictions of the Municipal Act. Thus, it can be seen that this restriction is discriminatory and places the municipal employee in a secondary position in relation to industrial workers.

The Municipal Act restriction not only places municipal employees in an inferior position in comparison to industrial workers, but it also places them in a similarly inferior position to other public employees in this Province. Employees of the Ontario Hydro together with the employees of the many municipal hydro electric commissions have their own pension plan known as "The Municipal Hydro-Electric Pension and Insurance Act". This pension

plan is not governed by the Municipal Act but by the Public Utilities Act.

The Hydro Pension provides for an employee contribution as low as 2-1/2 percent of salary while the Hydro Commission pays 7-1/2 percent of salary. While the Municipal Act restricts the employer to a contribution equal to that of the employee, the Utilities Act allows employers to pay up to three times the amount of the employee's contribution. There is no valid reason for this type of limitation against the municipal employee.

The absurdity of this arrangement is shown by the fact that an employee in one city could be classified as a municipal employee and come under the Municipal Act while an employee performing identical duties in another city is classified as a utility worker and comes under the jurisdiction of the Utilities Act, as far as pensions are concerned. For example, a waterworks labourer in the Town of Leamington is covered by the Utilities Act, since the public utilities commission in Leamington operates the waterworks. As such, a Commission may pay up to three times the employee's contribution towards a pension plan. However, in the City of Sarnia, less than 75 miles away, the waterworks comes under the jurisdiction of the Works Department and a waterworks labourer is a municipal employee coming under the regulations of the Municipal Act. As such, his employer is only able to pay an amount equal to the employee's contribution to his pension plan.

This is surely a ridiculous situation and this Committee should recommend that these anomalies be corrected. The best way of correcting this matter is to lift the ceiling on the Municipality's contribution.

Ontario has 976 municipalities, 3,852 school boards, and countless numbers of boards and commissions. If every municipality and board adopted its own pension plan, as would be permissible and encouraged by the present regulations, there would be over 6,000 different pension plans for municipal employees in this Province. Such duplication and multiplicity can only have two effects on pension plans:

- 1) Higher premiums for both the municipalities and the employees.
- 2) Lower pension benefits for the employees on retirement.

For these reasons, this Union feels an entirely new type of pension plan is required, rather than patching up and amending the present inadequate regulations. The time is long overdue in Ontario for the establishment of a single pension plan under the direction of the Department of Municipal Affairs for all municipal employees. The obvious benefits of such a plan has long been recognized by other provinces. For example, the Province of British Columbia has operated for many years a Municipal Superannuation Act which covers employees in all municipalities, school boards, hospitals, libraries, and other boards and commissions of the municipalities. A similar province-wide plan for Ontario is recommended for the following reasons:

1. Reduce the cost of administration:

The duplication in establishing and administering a possible 6,000 pension plans is very costly. This together, with the insurance companies retention, makes the cost of the pension unnecessarily high or the benefits unnecessarily low.

2. Encourages Portability:

Many smaller, but growing, municipalities must recruit specialized staff like assessors, health inspectors, and surveyors from the experienced staffs of the larger municipalities in the Province. However, many of the employees in the larger municipalities are reluctant to leave their

employment, even for higher salaries, since they would lose their rights in the pension plan. If one pension plan covered all municipalities, an employee would not be penalized for seeking to "better" himself.

3. Pension Funds would be available for Municipal Investment:

It is a well known fact that there is a shortage of investment funds in this Province for much needed municipal investment. A Municipal Superannuation Fund, operating under the Department of Municipal Affairs, could be directed to invest its funds in municipal development programs. In this way, the employees would benefit and the municipalities would also benefit by having funds available for borrowing.

As has been stated earlier, the municipal hydro electric systems have established their own province-wide plan. The Province of Ontario has established the Teachers Superannuation Plan for all teachers throughout the Province. The municipal employees also deserve the same benefits of such a plan and one should be established as soon as possible.

ITEM XI.

GENERAL OBSERVATIONS.

As mentioned earlier, most of the items contained in this brief have been presented to the Ontario Government on previous occasions -- either directly to the Cabinet, or indirectly to the Cabinet, through the facilities of a Select Committee such as your own.

We would re-iterate that, in our opinion, all of the requested changes in legislation are just and equitable proposals. There is no attempt on our part to pioneer in the area of writing statutes for the Province of Ontario; but, rather, we are soliciting your thinking in the direction of those particular articles of legislation which impose unfair restrictions on municipal employees -- just because they happen to be municipal employees.

The barriers which confront our people in the Municipal Act and the Labour Relations Act are barriers which are not encountered by any other segment of the working force.

We are genuinely hopeful that your committee will give the utmost consideration to each and every item contained in this brief. If our proposals were enacted in legislation, then municipal employees throughout Ontario would realize a measure of freedom of rights which they have been denied for many, many years -- a reasonable term might be "emancipation" -- not from the bonds of slavery, of course, but from the bonds of restrictive and discriminatory legislation.

The main theme of our brief, then, is that municipal employees should not, yes, must not be treated as second class citizens.

Municipal employees must not be deprived of any of the civic rights enjoyed by other citizens.

Respectfully submitted,

THE ONTARIO DIVISION OF THE NATIONAL
UNION OF PUBLIC EMPLOYEES

President
F. L. TAYLOR (Toronto)

1st Vice President
LEE JOHNSON (Windsor)

2nd Vice President
RON. MONKMAN (Toronto)

Secretary
MRS. GRACE HARTMAN (Willowdale)

Treasurer,
KEN. COUCH, (Downsview)

Executive Members:
MRS. MARCELLA MAY (Ottawa)
JAMES ANDERSON (Toronto)
R. I. RICHARDS (Windsor)
D. E. CRABBE (Windsor).

B R I E F

From the National Union of Public Service Employees, CLC
to the
Ontario Select Committee on the Municipal Act and Related Acts

INTRODUCTION

The National Union of Public Service Employees is an affiliate of the Canadian Labour Congress, and our jurisdiction is set out in our Constitution as follows:

"Any group of the following employees may be eligible for membership as a Chartered Local Union:-

Employees of any Provincial or Municipal Government of Local Authority or any subdivision thereof.

Employees of any Public Board, Commission established by or related to the Municipal Authority.

Employees of any Public Board, Commission or Authority of a Provincial Government.

Employees of any Hospital except those operated by the Federal Government.

Employees of any Social or Welfare agencies established to serve a community regardless of the sponsorship.

Employees of a Public Utility such as a Steam Heating Utility whose charges or rates to the public come under the supervision of a governmental body or agency."

NUPSE has 28,000 members in 150 Locals covering all types of public service employees across Canada. It is naturally affected by the operations of the Municipal Act and Related Acts and for this reason is making this presentation.

However, we realize that with the very large range of subjects that will be covered by the Select Committee, our National Union could not possibly discuss all these points. NUPSE has therefore, in this brief, restricted itself to certain areas which it considers important.

I. SICK LEAVE CREDIT GRATUITIES

The existing Municipal Act (RSO 1950, Chapter 243, Section 386 paragraph 49 - 1958 Office Consolidation) reads as follows:-

"For establishing a plan of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee shall be entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of the amount of one-half year's earnings at the rate received by him immediately prior to termination of employment."

It is our very strong opinion that this paragraph is unduly restrictive and is out of keeping with modern day collective bargaining trends.

1. The first part of the report deals with the general situation of the country and the progress of the work during the year.

2. The second part of the report deals with the results of the work during the year.

3. The third part of the report deals with the financial statement of the year.

4. The fourth part of the report deals with the personnel statement of the year.

5. The fifth part of the report deals with the general conclusion of the year.

6. The sixth part of the report deals with the general conclusion of the year.

7. The seventh part of the report deals with the general conclusion of the year.

8. The eighth part of the report deals with the general conclusion of the year.

9. The ninth part of the report deals with the general conclusion of the year.

10. The tenth part of the report deals with the general conclusion of the year.

11. The eleventh part of the report deals with the general conclusion of the year.

12. The twelfth part of the report deals with the general conclusion of the year.

13. The thirteenth part of the report deals with the general conclusion of the year.

14. The fourteenth part of the report deals with the general conclusion of the year.

15. The fifteenth part of the report deals with the general conclusion of the year.

16. The sixteenth part of the report deals with the general conclusion of the year.

17. The seventeenth part of the report deals with the general conclusion of the year.

18. The eighteenth part of the report deals with the general conclusion of the year.

19. The nineteenth part of the report deals with the general conclusion of the year.

20. The twentieth part of the report deals with the general conclusion of the year.

21. The twenty-first part of the report deals with the general conclusion of the year.

22. The twenty-second part of the report deals with the general conclusion of the year.

23. The twenty-third part of the report deals with the general conclusion of the year.

In our opinion the restriction of one-half year's earnings should be removed completely and the decision left to the Municipal Corporation concerned in its collective bargaining with its employees. However, if the Select Committee decided that there should be some limitation placed in any revised Act, then we submit it should not be less than two years.

2. EXEMPTION OF MUNICIPALITIES FROM THE LABOUR RELATIONS ACT

The Labour Relations Act (RSO 1960, Chapter 202, Section 89) says:-

"A municipality as defined in The Department of Municipal Affairs Act may declare that this Act does not apply to it in its relations with its employees or any of them. RSO 1950, c 194, s78."

So much has been written about this unjust section of the Act that we are loath to repeat the arguments here. However, we would like to quote from the Report of the Select Committee on Labour Relations of the Ontario Legislature, 1958.

"Section 78 (now 89) of the Labour Relation Act provides that any municipality may pass a by-law taking the municipal employees out of the Act. This section has caused a great deal of disturbance among municipal employees in that it has deprived them of the rights of certification, negotiation and conciliation enjoyed by employees in industry generally, and as a matter of fact, this section has been the cause of numerous work stoppages of essential services which would not have taken place had the collective bargaining process proceeded along normal channels.

It is the recommendation of the Committee that Section 78 of the Labour Relations Act be repealed."

We would point out that this recommendation was unanimously signed by the representatives of the three political parties which included five government members who are now Cabinet Ministers.

NUPSE, supported by the rest of organized labour, sees absolutely no reason for the continued existence of this escape-hatch, and we urge the Committee to recommend its repeal. We are not asking for any preferred position, just the same rights that are accorded equivalent workers in the private sector.

3. INSURANCE, HOSPITALIZATION, ETC.

The Municipal Act (RSO 1950, Chapter 243, Section 386, paragraph 49a - 1958 Office Consolidation) is set out as follows:-

"For providing by contract either with an insurer licensed under The Insurance Act or with an association registered under The Prepaid Hospital and Medical Services Act,

- (i) group life insurance for employees or any class thereof,
- (ii) group accident insurance or group sickness insurance for employees or any class thereof and their wives and children, and
- (iii) hospital, medical, surgical, nursing or dental services or payment therefor for employees or any class thereof and their wives or husbands and children,

and for contributing toward the cost thereof.

(a) No by-law under this paragraph shall authorize contributions by the municipality in excess of the total of those made by the employees.

(b) "Employee" in this paragraph means an employee as defined in paragraph 48. 1954, c.56, s.20 (6); 1957, c.76, s.20 (5)."

We wish to make the strongest representations on the limitations contained in the section of the Act. Collective bargaining surveys, conciliation board reports and management surveys show an ever-increasing trend towards 100% payment of such costs by the employer.

However, we do not want any 100% payment enforced in the Act; but our National Union is requesting that municipalities be free in collective bargaining with their employees to pay 50%, 70% or 100% if they so wish.

We therefore urge the repeal of this whole section, or the sub-paragraph (a).

4. CODE OF ETHICS

As a Union representing municipal employees, we are very much concerned with this whole problem of conflict of interest between elected officials and the business interests of these officials. Needless to say, our members are also municipal taxpayers and citizens, and are concerned in this capacity as well.

Without enlarging on the fact, we would point out that our National Union has locals in the following places:- York Township, Eatview, Belleville and Mimico.

We would not attempt to propose the exact wording of any addition to the Act, but would suggest that the following points should be covered:-

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- (1) All elected officials should make a sworn certified statement of their election expenses and the source of all donations, which should be published in local newspapers.
 - (2) Elected officials should, under no circumstances, vote on any matter in which they, their partners or their family, have any interest. Any such vote should automatically disqualify them from continuing to hold office, or seeking re-election.
 - (3) Elected officials should not be placed on Boards or Committees where there is, or appears to be, any conflict of interest. For example, Real Estate men on Planning Boards or Committees; Insurance Agents on Finance or other committees concerned with insurance; Contractors on the Works Committee, etc.
 - (4) That the central audit and control powers of the Department of Municipal Affairs over the municipalities should be increased. This should particularly include the power to investigate situations without waiting for things to get out of hand as they have in some recent cases.

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We are aware of the argument of "municipal autonomy" and would support this concept within reason. But large amounts of provincial tax revenue now goes by way of statutory grants to the municipalities, and the law should be strengthened to protect the taxpayers, both provincial and municipal. against corruption, mis-management and incompetence.

5. CONTRACTING-OUT OF WORK

In recent years it has become an increasingly bad habit of municipalities to contract-out certain of their service to outside contractors. This has been done on various pretexts, which include a more efficient operation, greater economy, etc., etc.

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But this overlooks the responsibility of a public body to be a good employer. This involves paying a fair wage, and reasonable fringe and other benefits. It also means that long service of employees is recognized and protected. The Federal Government has long had a "Fair Wages Clause" in all its contracts, and cities such as Toronto insist on all their work being performed at union standards and they have hired a Fair Wage Officer to enforce these provisions.

Our National Union is anxious that the Select Committee should realize that we feel that a provision controlling "contracting-out" has a wider benefit than just to our members. Municipal employees are citizens and consumers in the community in which they live, and their wages and salaries, if good, are of benefit to the community. We also feel that the average civic employee has a sense of responsibility to the citizens who employ him or her.

We, therefore, ask that the Municipal Act be amended to include a provision that contracting-out of work shall not be permitted unless:-

- 1) Equivalent wages and working conditions are available to the contractor's employees as were accorded to the municipal employees involved.
- 2) That employees who may lose their jobs shall either be placed elsewhere in the municipal service or be hired by the contractor without loss of pay.
- 3) That in any case such contracting-out shall not be permitted during the term of a collective agreement.

CONCLUSION

NUPSE would like, in conclusion, to give its opinion that the municipalities in this Province are much too small for either economical or efficient service to the citizens. We therefore urge the Select Committee to do all in its power to reduce the number of local authorities, boards, etc., in favour of larger single-purpose municipalities.

Submitted by the National Union of Public
Service Employees, CLC.

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OAKVILLE - TRAFALGAR BUSINESS PROTECTIVE BUREAU, INC.

VICTOR 5-1144

P. O. BOX 455, OAKVILLE

August 10, 1961.

Mr. Hollis Beckett, Q.C., M.P.P.,
Chairman, Select Committee to revise
Municipal & Related Acts,
Room 377,
Parliament Buildings,
Toronto 2, Ontario.

SUBJECT: Asphalt Driveway Solicitations

Dear Sir:

The Oakville-Trafalgar Business Protective Bureau was incorporated under Provincial Charter in the year 1959, the effective date being February 5th. Its objects are as follows:

- a. To endeavour to secure and, when advisable, to make known information regarding:
 1. Dishonest practices in merchandising goods and commodities and fraudulent methods in the sale of securities, personal services and real estate or the sale of fraudulent securities; and
 2. Persons using improper, dishonest or fraudulent means to sell merchandise, securities and real estate; and
- b. To aid duly constituted authorities in bringing to justice such guilty persons.

This organization co-operates with law-enforcement agencies, the Municipalities, Better Business Bureaux, Chambers of Commerce, etc. It attempts, wherever possible, to assist the general public by

- a. Taking complaints in writing against certain types of business operations and
- b. Attempts to get replies from the parties complained against and see if a reasonable settlement can be reached and
- c. It provides information to the general public as a means of protection against nefarious business practices.

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Mr. Hollis Beckett

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August 10, 1961.

These are some of the functions of the Business Protective Bureau.

Since the Bureau commenced its operations it has received among some of its most serious complaints, reports of extremely poor workmanship from certain asphalt driveway contractors whose names are on file. The cost of the average driveway solicited on a door-to-door basis is in the neighbourhood of \$200. and very often supported by a piece of paper claiming to be a guarantee for a somewhat lengthy period of time without actually specifying the type of guarantee in detail.

It has also been found in certain cases that the life of the guarantee would have been meaningless since many of the paving (and largely door-to-door soliciting type) companies fold up and we are led to believe start under another name in another community.

Reports received from across the Province have shown that many communities are as hard hit as the Oakville-Trafalgar District and in some cases far more seriously because the smaller communities may not have a bureau such as ours to assist the public.

We believe that the Municipal Act as at present does not require asphalt driveway contractors and salesmen to take out a licence and because of this factor communities find it very difficult to control this type of operation.

We would be very pleased to supply copies of some of the complaints to your committee in confidence and would sincerely hope that a fee which would be comparable to that at least paid by bona fide paving contractors that are established and paying their fair share of taxes be imposed in the revised Act and suggest, if possible, that the best means of control would be under a building permit.

Respectfully submitted on behalf of the
Oakville-Trafalgar Business Protective
Bureau, Inc.

Secretary

President

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OAKVILLE - TRAFALGAR BUSINESS PROTECTIVE BUREAU, INC.

VICTOR 5-1144

November 14th, 1961. S. OAKVILLE

Mrs. H. G. Rowan,
Secretary,
Select Committee on the Municipal Act
& Related Acts,
Room 377,
Parliament Buildings,
Toronto 5, Ontario.

Dear Mrs. Rowan:

In compliance with your request of November 1st, regarding the licensing of door-to-door salesmen in general, I respectfully submit the following to the Committee:

a My experience relating to door-to-door salesmen, canvassers, etc., is based on experience with these people in the Kingston District, the Oakville-Trafalgar district and in many parts of Ontario when I was President of the Ontario Chamber of Commerce Executives.

The problem of Business Protective Bureau activities and its inherent problem of one phase relating to door-to-door people was discussed, studied, at many of our association meetings.

There appears to be two kinds of sales people who are selling direct to the consumer, the one being a serious attempt to make a living on a reasonable and ethical plane (i.e., companies associated with the Direct Sellers' Association) and the other type being the salesman who will sell a product by using any means available whether it be ethical or unethical and in certain cases, perhaps downright illegal, using the knowledge that to take them to court would be very costly.

I suggest that there would be a sigh of relief by the majority of citizens, police departments, etc., if there were no longer any door-to-door salesmen and particularly those who use misleading methods of selling i.e., pyramid plans, certain types of franchises, etc., supposedly selecting leading citizens by choosing anyone from the telephone directory intimating that the customer is getting something free for the use of their names or getting a free product if they sold these items in turn to their neighbours or some similar sales gimmick.

In large part, and according to the hundreds of calls received here, we find that generally door-to-door salesmen are a public nuisance. However, in the position of an executive with an association such as ours, I must always take into consideration that there are two sides to every story.

At the moment, I am particularly concerned with the manner in which so-called food supplements or vitamin pills are being sold by laymen and I do not feel that this subject has to be elaborated on any further in view of the recent newspaper articles attributed to the American Medical Association and the Food & Drug Administration Department of the U.S.A. These people have taken strong leadership and it is hoped that the same will shortly be done in Canada.

b One opinion I have often heard from many citizens is that there is (in the opinion of the citizen) an invasion of privacy every time a salesman or canvasser steps on private property and brings a store to the householder. We have been asked many times if something cannot be done to stop door-to-door salesmen, this notwithstanding that a great many people, particularly those involved in the selling fields, may disagree with this theory.

c In my opinion, the average license fee charged today is far too low in relation to competition of an established community outlet responsible to the public for service, quality, price, etc., as opposed to many door-to-door people who do not seem to have proper business ethics and who do not do business in the general interests of the public (again it is hard to place everyone in this category and not realize that even certain established businesses are sometimes not considered to be too ethical. However, this being the case, the established business soon stands to lose public confidence and in the long run is the loser).

d Again, in my opinion and experience, the worst door-to-door offenders seem to be 1) the magazine and encyclopaedia salesmen who more often than not seem to use misleading methods such as: working their way through some form of scholarship or implying that they are making a fictitious survey, pretending to work on behalf of a charitable or worthwhile group, using names of locally prominent people to sell their products, etc. 2) photographic salesmen and order takers who imply that they are giving a fantastic reduction on the price of the photograph. However, when the purchaser receives the photograph in question, he does not realize that the cost of frames and other paraphernalia is not included in the price. 3) itinerant and transient asphalt driveway paving companies (these people, I think, should receive special attention, perhaps be bonded for their work and the licensing authority should first check the type of contracts these people will be issuing to the public before receiving any form of license). Some others we have had poor experience with include the selling of or taking orders of food freezer plans, water conditioners, fire alarm systems, aluminum storms and screens, etc. Some of these people use the pyramid or franchise plan to throw the purchaser off guard by often implying that they may get the product for nothing. However, the purchaser is not aware that he, in turn, must sell a great many products and is very often paying a much higher price to start with.

e From a competitive viewpoint, it also seems somewhat unfair to get local housewives, etc., to sell cosmetics, beauty products,

Christmas cards, household articles, and so on, by using the gimmick that they will be making money in spare time, all this in competition to well-established stores contributing to local charities, and paying taxes. Instead of creating extra employment, there may also be the argument that this form of selling may curtail employment by decreasing certain sales from established tax-paying outlets. This, of course, would be a matter for debate in certain quarters. Notwithstanding previous statements, it would seem to me, in the best interests of the community, that the following suggestions may have some merit;

1) since we do live in a democracy and there are some argumentative points as to the complete stoppage of door-to-door salesmen, perhaps the best solution would be to leave the maximum licensing in the hands of the community and that the community officials be given sufficient power to allow time for investigations, if necessary. If this seems arbitrary, perhaps established businesses should also be taken into consideration.

2) with the exception of home-grown produce, I believe the minimum licensing fee is far too low for the reasons stated previously and for administrative cost necessary in many instances to control or police the work involved. The low fee also encourages many borderline infractions.

3) that proper licensing is necessary has been proven with the recent increase in the fee of door-to-door photographic salesmen and particularly where each salesman was charged a fee (in effect, does each salesman or woman in reality not cover a section or territory equivalent to a small business).

4) there is some doubt as to what can be done if a licensing fee is circumvented by demand to set up appointments by telephone or other means. Perhaps the answer to this is that once a person does approach the householder in person he or she should be considered a door-to-door salesman and be liable to the fee (refer to Alberta legislation).

5) I also feel that too many door-to-door salesmen (there are certain exceptions) having only the object of making as much money as possible in mind, some of these with very few scruples, use every loophole available in the law towards keeping within the law but feeling that as long as something is legal it is right.

6) again, through experience, I have found that communities located outside Toronto and other large cities in Ontario seem to suffer more from businesses with headquarters in the larger cities.

7) in licensing, I would suggest that provision be made for each and every door-to-door salesman, order taker, whether carrying samples or not, (and this is one of the apparent legal ways out of not having to obtain a license) all subject to an appropriate license.

8) that a central bureau (preferably the Ontario Provincial Police Headquarters) be informed by the local police departments of indiscretions relating to the law by individuals or companies so that this information may be used as a guide by municipalities if and when making enquiries prior to a license being issued.

1. The first part of the report deals with the general situation of the country and the progress of the work during the year. It is a summary of the work done and a statement of the results achieved. It is a statement of the work done and a statement of the results achieved.

2. The second part of the report deals with the specific work done during the year. It is a statement of the work done and a statement of the results achieved. It is a statement of the work done and a statement of the results achieved.

3. The third part of the report deals with the financial statement of the year. It is a statement of the work done and a statement of the results achieved. It is a statement of the work done and a statement of the results achieved.

4. The fourth part of the report deals with the general conclusion of the year. It is a statement of the work done and a statement of the results achieved. It is a statement of the work done and a statement of the results achieved.

5. The fifth part of the report deals with the general conclusion of the year. It is a statement of the work done and a statement of the results achieved. It is a statement of the work done and a statement of the results achieved.

You will appreciate that some of the measures suggested or pointed out, while being strong, would in some way help to relieve organizations such as ours from a very heavy workload and would in some cases, perhaps reduce our jobs completely. However, we feel that apart from this being in the best interests of the community, it is the fondest hope of this writer that someday a bureau such as ours may not be necessary because of public awareness of good business ethics and proper legislation and enforcement.

Respectfully submitted,

A. Klarer,
Managing-Director.

AK/bm

Addendum: It has been noted by many of my colleagues that while the Toronto Better Business Bureau may give certain organizations or groups a comparatively clean bill of health, the smaller communities with their guard down because of this factor, may have a very poor experience with these same groups. We have some cases on file.

THE VIEWS EXPRESSED HEREIN ARE NOT NECESSARILY THOSE OF
THE BOARD OF DIRECTORS OF THE OAKVILLE-TRAFALGAR BUSINESS
PROTECTIVE BUREAU, INC.

Ontario Association of Real Estate Boards

~~109 MERTON STREET • TORONTO 7 • HU.1-5191~~ • executive secretary—O. K. TEETZEL
20 EGLINTON AVE. E., TORONTO 12, 481-5191

A SUBMISSION TO THE SELECT COMMITTEE OF THE ONTARIO LEGISLATURE, APPOINTED TO ENQUIRE INTO AND REVIEW THE MUNICIPAL ACT OF THE PROVINCE AND RELATED ACTS INCLUDING THE PLANNING ACT BY THE ONTARIO ASSOCIATION OF REAL ESTATE BOARDS

Honourable Chairman and Members of the Committee:

Recommendations contained in this submission are presented with no general attempt on the part of this Association to select actual wording to accomplish desired ends. Our attempt herein is to recommend certain principles which we would like to see followed.

THE ASSESSMENT ACT:

We comment in this part of our brief on The Assessment Act, R.S.O., 1960 Chapter 23 (hereinafter referred to as the Assessment Act.) These are our views:

1. The present Act requires that properties be assessed at 100% of their value. The present practice is to assess properties in relation to 1940 value.

This practice leads to inequities in assessment since 1940 is over twenty years ago and many modern building materials and techniques were not even available then; and there is no authority in the present Act to assess in relation to 1940, with the result that in appeals, judges have no recourse but to follow the Act as written.

It is our recommendation that any new Act specify the standard of assessment in relationship to a more up-to-date price level and further that when such more recent datum line is used that a percentage figure be selected which is less than 100%. It is our thought that the percentage selected be chosen so as not to materially raise present assessment since lower assessment with higher mill rates exert a greater restraint upon municipal bodies setting taxes.

In this connection it is our opinion that the wording "actual value" in section 35 of the Assessment Act should be changed to "current market value". Should the Select Committee decide on changes in the basis of assessment it is respectfully suggested that they might find it helpful to refer proposals to this Association for comment since it is composed of members familiar with the practical problems of appraisal.

2. We would recommend the principle that a new Act should be so worded to remove the present power of an assessor to over-rule or ignore court decisions. Under the present Act he may do exactly this. An Assessment appeal is made to the Court of Revision, a County Court Judge, or the Ontario Municipal Board, (or combinations thereof in case of further appeal.) When judgments are handed down and accepted by both parties, reducing the assessment on a property, the assessor may raise it back to its former level in the preparation of the next roll.

This we believe is wrong and should be corrected by a provision that where an assessment is reduced by any of the

page three

above mentioned bodies, that the assessor should have no power to increase such assessment until a period of three years has elapsed from the time when a court has set the assessment or at such time as a next general re-assessment is made (if less than three years) save and except where additions or changes are made to the property. In fact, a new Act should be worded, not only to remove his power so to do but to definitely prohibit his so doing; similarly, an appellant tax payer should be so bound to prevent further appeals on his part for the same length of time.

3. If Point # 1 herein is acceptable, then, it becomes necessary that Assessment Manuals now in use be amended since new rates would be necessary in all phases of assessment. Presently, the Ontario Manual, many municipal manuals and still, in many cases, no manuals at all are in use throughout Ontario. The Act itself recognises the existence of none of them. It would, therefore, be our recommendation that a new Act should require the use of a new and up-to-date uniform manual by all municipalities, to be prepared by the Ontario Government and further, that such manual should leave nothing to arbitrary decision on the part of the assessor, i.e., the present day rental factor.

page four

4. Municipalities are having difficulty under the present Act in applying business assessment to parking areas provided in shopping centres where space is leased to many tenants whereas small private shopping centres are being properly assessed, again an inequitable situation

In view of the large amount of land now being devoted to parking in large retail developments it is our recommendation that any new Act be so worded as to allow proper business assessments to be placed on land devoted to parking.

A formula should be worked out to apply a business assessment on the parking area to each tenant in relation to the area of the space leased by such tenant.

5. Assessment legislation requires adequate assessment staff properly trained and paid. It is requested that facilities be made available for the training of assessors. If requested, this Association, which has been conducting professional training courses for some years, might be glad to assist.

THE PLANNING ACT:

We comment in this part of our brief on The Planning Act, R.S.O., 1960 Chapter 296.

It has been the privilege of the Legislation and License Law Committee of the Ontario Association of Real Estate Boards to study the brief submitted to the Select Committee by the Urban Development Institute. This submission appears to

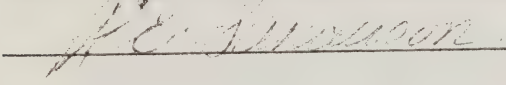
page five

be based on The Planning Act, 1955 as amended, which only differs in minor respects from the current Planning Act. Our Committee endorses the recommendations contained in this submission of the Urban Development Institute.

In addition, for the information of the Select Committee we enclose copy of a letter expressing the views of this Association to the Minister of Municipal Affairs, dated July 7th, 1961, and a copy of the reply dated August 3rd, 1961. Regarding this reply, it was not, of course, the desire of this Association that "the choice of persons for appointment to Planning Boards" should be limited to Realtors only, but that Planning Boards should be encouraged to invite Realtors to be members of Planning Boards.

ONTARIO ASSOCIATION OF REAL ESTATE BOARDS:

September 5, 1961.


R.E. Sanderson, Chairman,
Legislation and License Law
Committee.

COPY LETTER

Ontario Association of
Real Estate Boards,
109 Merton St., Toronto, Ont.

July 7th, 1961.

The Honourable W.K. Warrender, Q.C.,
Minister of Municipal Affairs,
Parliament Buildings,
Toronto, Ontario.

Honourable Sir:

I would respectfully submit for your attention the following resolution which was adopted at the 39th Annual Convention of this Association:

"WHEREAS this Association notes that the Planning Act, 1955 requires Planning Boards to obtain the participation and co-operation of the inhabitants of a Planning Area in determining the solution of problems or matters affecting the development of the Planning Area,

AND WHEREAS the maximum possible benefits of such participation and co-operation are not being achieved by reason of:

1. The present degree of utilization of all the talents of inhabitants of a Planning Area.
2. The amount of notice sometimes given to interested parties for the study of proposed changes in Planning legislation.

AND WHEREAS Realtors by virtue of their professional experience can contribute to the public interest by participation and co-operation in Planning matters,

THEREFORE BE IT RESOLVED that the Ontario Association of Real Estate Boards request the Government of the Province of Ontario to require that:-

- a) Planning Boards are encouraged to invite Realtors, nominated by their local Real Estate Boards, to be members of Planning Boards.
- b) A minimum of four weeks notice for consideration of Planning and Zoning changes is given by Planning Authorities."

Since this resolution was adopted this matter has been the subject of considerable study by our Provincial Research Committee and the following is an excerpt from its report to the meeting of our Board of Directors which was held in Toronto, June 2, 1961:

"With reference to Paragraph A of the above resolution there was a definite feeling in the committee that all boards should make concrete proposals to the Municipal Authorities ahead of actual policy decisions. This Association will be encouraging local Real Estate Boards to offer the services and experience of some of their members to serve with various committees at the Municipal level.

With reference to Paragraph B of the above resolution the Committee discussed at some length both the form of the notice and to whom the notice should be given. It was felt that nothing should be done to inhibit reasonable and necessary changes to antiquated By-Laws.

It was therefore decided that the Ontario Association of Real Estate Boards be requested to make representations to the Government of the Province of Ontario and that it request each individual Real Estate Board in the Province to make representations to their local Municipal Authorities to the effect that where changes in present zoning are being considered, in addition to written notice to owners of properties in the area, notice be given a reasonable period in advance to the public at large by suitable insertion in the local newspapers."

This report was unanimously adopted by the Board of Directors and upon its instructions I am forwarding these comments to your office for such action as you may deem advisable.

Yours very truly,
O.K. TEETZEL.
Executive Secretary.

COPY LETTER

FROM: Department of Municipal Affairs,
801 Bay Street, Toronto 5.

August 3, 1961.

Mr. O.K. Teetzel,
Executive Secretary,
Ontario Association of Real Estate Boards,
109 Merton St.
Toronto 6, Ont.

Dear Sir:

Re: Legislation - The Planning Act,
 Suggested Amendments.

I have been instructed to acknowledge receipt of your letter of July 7, 1961, addressed to the Minister setting out a resolution adopted by the 39th Annual Convention of your Association and also setting out an excerpt from the report of the Provincial Research Committee of your Association to your Board of Directors.

As we understand the representations made by your Association, you are proposing that realtors be encouraged to take an active part in the planning activities of the various local communities across the Province, perhaps as members of planning boards. Your Association also is recommending that notice be given on a wider basis when changes are being considered in various planning and zoning instruments.

While there is no specific reference in your letter to amendments to legislation, presumably the question of wider notice would require legislative action. Accordingly, we propose to include this suggestion in our consideration of possible amendments to The Planning Act.

As to the inclusion of realtors as members of planning boards, you will appreciate that the appointment of members to planning boards is a local function, performed by the council of the designated municipality within the planning area. It is usually considered undesirable to limit unnecessarily the choice of persons for appointment to planning boards. It is expected that municipal councils will try to find the most suitable candidates for appointment. In a number of cases, the municipal council has seen fit to appoint realtors to membership on planning boards, and no doubt these persons have made, and continue to make, a valuable contribution to the work of the planning board.

Yours very truly,
A.L.S. NASH, Director - Community Planning Branch.

W. L. Brown

S U B M I S S I O N B Y

THE ONTARIO CHAMBER OF COMMERCE

TO

THE SELECT COMMITTEE

ON

THE MUNICIPAL ACT

AND OTHER RELATED ACTS

C O N T E N T S

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The Chairman,
Select Committee on the Municipal Act
and Other Related Acts,
Parliament Buildings,
Queen's Park,
TORONTO, Ontario.

Dear Sir:

The Ontario Chamber of Commerce takes great pleasure in presenting a number of suggestions which we believe will be of interest to the Select Committee in its enquiries into the Municipal Act and Other Related Acts.

The Ontario Chamber of Commerce is a voluntary federation of some 240 . autonomous boards of trade and chambers of commerce throughout the Province of Ontario. The local membership of these boards and chambers amounts to some 40,000 businessmen and professional persons drawn from a wide range of businesses. Thus we believe that the views presented in this submission are representative of the business community as a whole and not of any specific group within that community.

Policy proposals advanced by the Ontario Chamber are approved by ballot after discussion at an Annual Meeting where each board or chamber is entitled to a single vote, regardless of its size.

Topics in this Submission

The topics included in this submission are as follows:

- (1) Municipal Business Tax
- (2) Council-Manager Form of Municipal Government
- (3) Procedure in the Event of Death of a Candidate for Local Election
- (4) Licensing of Transient Subscription Salesmen
- (5) Inspection of Public Buildings
- (6) Taxation of Publicly Owned Utilities and Crown Properties
- (7) Election Polling Hours

Municipal Business Tax

The distinctions and conditions upon which the Ontario Municipal Business Tax was predicated in 1904 are greatly altered today. The graduated rates now are meaningless, arbitrary and inequitable. It is extremely difficult however to suggest an alteration in the graduated rates of the present form of business tax which would bring about an equitable result. This is because the principle of "ability to pay" cannot be related to the value of the business premises occupied.

We therefore propose that the Ontario Municipal Business Tax in its present form be abolished and a new system established which would employ either or both of the following:

- (1) Substitute other revenue sources;
- (2) Adopt a differential assessment or a differential tax rate, the differential in either case being pegged by statute.

Other Revenue Sources

Sales Tax We do not recommend an extension of the present tax beyond its present level of 3%.

Income Taxes To replace the approximately \$65 million which would be lost to municipalities if the business tax were abolished would require a substantial increase in corporate and/or personal income tax levels. We do not recommend this as an additional source of revenue.

Deed Transfer We do not believe this to be a very productive tax. It has the disadvantage of further adding to the home purchaser's costs.

Poll Taxes and Payroll Deduction Taxes We recommend that serious study be given to a form of poll tax which would be administered by employers and which would consist of a compulsory deduction of say, 50¢ per week from each employee.

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Such a tax, if put into effect in Ontario would produce in excess of \$55 million per annum. The income from this tax would be paid to the municipalities in which it was collected. Thus there would still be some correlation between the number of people working in a municipality and hence the services to be provided and the revenues of that municipality. It would thus have the advantage of extracting from non-residents some part of the costs of roads, police and other services used by commuters and it would be easy to collect both for the employer and the municipality.

The tax could be applied to those persons earning above an established income level, say \$1500 per annum or its equivalent weekly rate. With no minimum income requirements, such a tax would raise approximately:

50¢ per week	-	\$58 million
30¢ per week	-	\$35 "
20¢ per week	-	\$23 "
10¢ per week	-	\$11½ "
5¢ per week	-	\$ 5 3/4 million

Of the 30 cities in Ontario only 20 levy a poll tax. None of the separated towns do so. The poll tax, unlike the payroll deduction tax suggested above is unproductive and is not easily collected. If a payroll tax were introduced, the poll tax might well be abolished.

None of the alternate sources of income suggested above would be adequate to make up the loss of revenue should the business tax in its present form be abolished. We would therefore recommend that a differential assessment or a differential tax rate could be used in conjunction with a payroll deduction tax.

Differential Assessment, Differential Tax Rate

It is traditional in Canada for business property to be taxed more heavily than residential. This is exactly the opposite to the position in England, where industrial property is taxed on only 50% of the assessed value and commercial property at 80%. Residential property in England is assessed at 100% while agricultural land is exempt.

If it is not possible to break with tradition, and industry and commerce have to continue to pay more than other local taxpayers towards the support of local government, at least a uniform system for all types of business should be adopted. This could be achieved by classifying all real property into two divisions based on use, as presently employed for purposes of the unconditional per capita grant. These two groups are:

- (1) Residential and farm,
- (2) All other

Then, either a differential assessment or a differential tax rate could be adopted for both groups.

Under differential assessment all property which qualified for classification in the omnibus group (2) should be assessed at the same value as property in the residential and farm category, plus a certain percentage laid down by statute.

If the differential assessment is used alone to replace the present business tax, without the supplementary revenues being derived from a payroll deduction tax, then the differential might be approximately 33 1/3% higher for commercial properties. On the other hand, if the payroll deduction tax were also imposed, the differential could be very much lower.

The intention would also be that all grants present and future should benefit all property equally and that all property within the omnibus classification would be assessed and taxed uniformly without any exemptions. This uniformity

would require most Crown properties, railways, and certain other commercial-type properties which do not presently make grants-in-lieu of business taxes or pay business taxes, to contribute a larger share than at present. Provincially owned Crown property should also be required to pay grants-in-lieu of taxes based on a uniform tax rate in line with all other types of property. At present, no grants-in-lieu of school taxes are paid on provincial property. Private companies affected by this increase would be those to which statutory assessments applied. Examples would be, the Bell Telephone Company, which does not pay business taxes on its assessment of gross receipts, and pipeline companies.

It is also recommended that if a system of differential assessment were to be adopted, a study of statutory assessments should be made to correct any injustices which might be occasioned.

The same results as described for a differential assessment could be achieved by use of a differential tax rate pegged by statute.

At present Ontario is the only Province to authorize its municipalities to levy a differential tax rate, that is, to levy a higher rate of taxation on industrial and commercial properties than on residential. This is achieved by putting the proceeds of the unconditional per capita grant to the benefit of residential and farm property only - an arrangement which was first started in 1957. Today, the spread between residential and business tax rates is quite small, averaging about 4 or 5 mills. This gap is due to increase over the next few years as supplementary education grants of increasing size are also put only to the benefit of residential and farm properties.

At present the spread is more or less controlled by the Province through the amount of provincial grants. If the business tax were removed and in its place councils were authorized to levy a heavier tax rate on business properties, the results could be chaotic if the differential were not controlled by statute at a specified percentage.

The sort of thing that might happen is illustrated by historical events in Halifax. That city is the only municipality outside Ontario to levy a differential rate which it does under the provisions of its own charter. It is in fact, the father of the differential rate. This is the story as reported in *"Local Finance", October, 1961: "In 1944, the residential rate in Halifax was fixed at 35 mills and the business rate at 42.50. By the time of the reassessment in Halifax in 1955, the business rate had spiralled to 99.50 while the residential rate remained pegged at 35 mills. After the 1955 reassessment the residential rate dropped to 14 mills or 40% of the former rate but the business rate fell only to 47.50 mills or 48% of what it used to be. From 1955 until 1959 the policy was to keep the business rate at 47.50 mills and to allow the residential rate to increase. In 1959 the residential rate stood at 19.50 mills. In 1960 both rates absorbed the tax increase of that year and became 20.60 and 48.60 respectively for residential and commercial taxpayers. Such widely differing rates penalize and discriminate against the business community".

While a differential tax rate pegged by statute would be equally as suitable as the use of a differential assessment, experience in Halifax suggests that if the tax rate differential is left to council discretion great inequities can result.

Summary of Recommendations:

The Chamber recommends that the Municipal Business Tax in its present form be replaced by:

- (1) A payroll deduction tax, revenues going to the municipality in which the employee works. Deductions might apply to persons whose earnings were above an established minimum. Revenues for Ontario as a whole

would be approximately (with no minimum earning requirements):

50 cents per week	-	\$58	million
30 cents per week	-	\$35	million
20 cents per week	-	\$23	million
10 cents per week	-	\$11½	million
5 cents per week	-	\$5 ¾	million

plus

- (2) a differential assessment with the differential pegged by statute.

Properties in omnibus class above would be taxed on 100% of the assessed value, while residential and farm would be taxed on some smaller percentage.

or

- (3) a differential tax with the differential pegged by statute, Assessment on all properties would be 100% with those in the omnibus group paying a higher tax rate.

The Council-Manager Form of Municipal Government

Our recommendations on this subject are centered around the provision of permissive legislation which will do two things:

- (1) Amend the Municipal Act so as to provide recognition of the Council-Manager Form of Municipal Government in the form of permissive legislation allowing its adoption by municipalities without special Acts of Parliament.
- (2) Provide legislation to define:
 - (a) the responsibilities of the manager to the municipal council;
 - (b) the manager's duties and obligations;
 - (c) the responsibilities of appointed officials to the manager.

We would prefer to see permissive legislation in this field because we recognize that not all communities wish to adopt this system of government. Some fifteen communities in Ontario now have a Council-Manager Form of Municipal Government. Most of the communities adopting this system have done so in the last decade.

Although many communities have chosen to adopt this form of local government, the Municipal Act does not recognize it and we feel that its value has been proven in most instances where it has been adopted. We would therefore like to see it officially recognized by appropriate statutes as a method of local government worthy of adoption if a community desires it.

The Municipal Act in its present form may be interpreted as providing the framework for the adoption of a community of a chief official who would be more than a "primus inter pares". However, the Act as it stands is not specific and as such does not recognize the Council-Manager Form of Municipal Government.

In asking for the various duties and responsibilities to be defined, we are not suggesting that they should be defined in depth. Different municipalities may prefer different structures to suit their own local conditions. What we would like to see is a skeleton definition in each case so as to provide minimum safeguards should a community decide to adopt the system. The actual specific content of these definitions would be decided by the local councils concerned.

Finally we would like to suggest that the committee give consideration to studying the possibility of allowing communities whose population is 100,000 or more to choose between the Council-Manager System and boards of control.

Procedure in the Event of Death of a Candidate for Local Election

The Chamber has given consideration to Section 51 of the Municipal Act which provides that if a candidate for a civic office dies after he has qualified, but before the close of the polls, the Returning Officer must fix a new date for the

nomination of candidates for such office and for polling.

The situation brought about by the death of a candidate for any office could result in considerable expense to a municipality which must provide all the machinery for an additional polling date. It could result also in a great deal of inconvenience and expense to the candidate.

We therefore recommend that Section 51 of the Municipal Act dealing with the procedure to be followed in the event of the death of a candidate for any municipal office be amended so as to leave it to the majority vote of the sitting council to decide.

Licensing of Transient Subscription Salesmen

The Municipal Act, Section 395 (5) permits a municipality to license persons who, for gain, sell or offer for sale on any highway, books, periodicals, pamphlets or other printed matter, and for prohibiting the taking or soliciting of subscriptions to a magazine upon any highway or in any public place.

The Chamber is concerned that the Municipal Act does not permit a municipality to license non-resident, transient salesmen or subscription agents for the sale of newspapers, magazines, books, periodicals, pamphlets, or other printed matter, who canvass from door to door.

We therefore recommend that the Municipal Act be amended to enable municipalities to license non-resident, transient persons, who for gain, go from place to place, or from door to door, or to a particular place to solicit subscriptions or sales for magazines, books, and other printed matter.

Inspection of Public Buildings

Section 381 (2) of the Municipal Act provides permissive legislation for urban municipalities allowing them to inspect any building for its structural safety.

The Chamber is concerned that this legislation, which is vital to public safety, should be permissive. We believe that all municipalities should be required to provide inspection of public buildings, in particular to ensure their structural safety. Such buildings as arenas, rinks, dance halls, gymnasiums, churches and other similar places of assembly should be subject to compulsory inspection.

Such inspection is best left in local hands, and where compulsory inspection would strain the resources of smaller communities we believe it would not be impossible to arrive at some arrangement which would ensure the safety of the public without diminishing local autonomy.

Taxation of Publicly Owned Utilities and Crown Properties

While the Chamber recognizes that the Government has made provisions for payments in lieu of taxation on publicly owned utilities, we would like to see the payments extended to the point where they are compatible with the taxes paid by other business ventures. At present such properties do not pay school board taxes, which we consider unfair.

We therefore recommend that legislation be passed which will allow municipalities to tax these properties on the same basis as privately owned utilities or companies.

Election Polling Hours

The Chamber would like to see study given to the possibility of extending polling hours in municipal elections to 8:00 P.M. Present legislation provided by Section 89 of the Municipal Act allows the municipalities to extend the polling hours until 9:00 P.M. but this legislation is entirely permissive. The minimum requirement is that polling places shall be kept open until 5:00 P.M.

We request a mandatory minimum requirement to keep polling places open until 8:00 P.M. This would be of great convenience to commuters and would, to a great extent, avoid the disruption of production schedules and assembly lines where employees vote during working hours.

Respectfully submitted,

E. T. Atherton,
Manager,
The Ontario Chamber of Commerce.

BRIEF
RE: BUSINESS TAX ASSESSMENT

on

ONTARIO CREAMERIES

PRESENTED TO

THE SELECT COMMITTEE ON THE MUNICIPAL ACT

and

RELATED ACTS

by

THE ONTARIO CREAMERYMENS ASSOCIATION

SEPTEMBER 15th 1961

Box 198,
Woodstock, Ont.
September 15, 1961.

Mr. Hollis Beckett, Q.C.

Chairman:

Select Committee on the Municipal Act and Related Acts.

Mr. Chairman and Gentlemen:

We are presenting herewith a brief of arguments from our Association requesting that consideration be given to establishing a fair and equitable rate of business assessment for creameries in Ontario.

We make no apologies for presenting exactly the same brief we presented to the Honourable Mr. Warrander nearly two years ago. This brief contains all the basic reasons for our requests at that time.

However, because your Select Committee will be considering the Act from a much broader viewpoint than the acute problems of the Creamery industry in Ontario, we are submitting a supplementary summary which will, in part, cover an added problem that has been developing over the past two years. This summary will also express some views that you may wish to consider in developing any recommendations your Committee may see fit to make for a revision of the Assessment Act.

We would call your attention to Page Two of the brief wherein we stated that in 1959 the number of creameries stood at about 190. Creameries in Ontario have continued to go out of business over the past twenty months: a close estimate to-day would be that only about 165 creameries are operating, a decline of approximately 25 over a period of two years. A number of the creameries operating twenty months ago now function as receiving stations for other creameries. The life of a receiving station is usually not too long. It is expected that a few more creameries will close before the end of the year.

H.G. Webster,

SECRETARY-MANAGER.

Toronto, Ontario,
December 18, 1959.

To the Honourable Mr. Warrender,
Minister of Municipal Affairs,
Legislative Assembly,
Province of Ontario.

Sir:

The Executive of the Ontario Creamerymen's Association beg to present to you a brief of arguments relative to the application of the municipal business tax to the creameries operating in Ontario.

It is the contention of this Association that there is confusion in the application of the business tax to creameries; that the interpretation of the Act by some assessors may be questioned with particular reference to the original intent of the Act, and that this interpretation is working a hardship on many creameries.

We will, Sir, in the course of this brief, request, that the Act be amended to give clarification to its interpretation and relief to certain creameries, or that a directive be issued to assessors to bring about the desired results.

Our Association represents eighty percent of the operating creameries in Ontario who voluntarily pay annual membership dues. We function as a trade association, publish a weekly bulletin to our members, act as a liason group with various Government Departments and as a bargaining group with the Cream Producers' Marketing Board on the matter of minimum prices.

The Act with Reference to Creameries

The Assessment Act provides for the application of a business tax to property where a business is being carried on. This tax is based on a percentage of the assessed property value. The Act stipulates that certain types of business shall be assessed for business tax purposes at a certain percentage varying from 10% to 150%, depending on the class or type of business. A number of business types are specifically listed. Manufacturing is listed at 60%. The Act states that all business operations not listed shall be 25%.

Fluid milk distribution, cheese making and butter making are not listed. As far as we are able to ascertain the business of milk distribution

and making cheese from raw milk are for business tax purposes assessed at 25% of property assessment. It would appear that at one time a reasonably high percentage, if not all, creameries were placed in the same class as milk distributors and creameries for business tax purposes which at present are assessed at 25 percent. Over the years there has been a trend and more particularly in the last decade or so to place creameries in the 60 percent class along with manufacturing industries. It would appear that some assessors have decided that making butter is a manufacturing industry. Just how this decision was reached we do not know nor can we understand why it should be so when cheese making is classed as food processing and assessed for 25 percent.

If we were to try and make a decision on the fine distinction of the meaning of the word manufacture which originates from the latin "manus and facis" meaning hand made, we might well except buttermaking, particularly when we consider the modern method of continuous buttermaking which is registered as a process.

We are not however trying to base our arguments on the fine distinction in the meaning of a word. We submit, Sir, that there are much more fundamental reasons for our request.

The Economic Position of Creameries

In 1939 Ontario had 337 creameries in operation. In 1959 the count stands at approximately 190. There are a number of creameries operating today who have not sufficient margin to replace equipment and will close within the next few years. The record stands today with a creamery closing every six to eight weeks. Ontario is still maintaining her total output of butter over the years, but it is being made in fewer factories. The gain in efficiency that is made in plant operation by processing larger volume is largely offset by increased costs of cream procurement and transporting it over greater distances. Many creameries are not in a financial position to modernize with stainless steel equipment that technology has developed for up-to-date food processing.

The one outstanding feature of the creamery industry in Ontario and Canada today is the fact that they return to the primary producer the highest percentage of the consumer's dollar of any food product marketed in this country. This is well attested to by the Royal Commission on price

spreads. In 1958, 78.2% of the retail price was returned to the primary producer. It is the only food product that has reduced the price spread over the past ten years.

The creamery operators are working on too close a margin. Too many creameries are going out of business. Any relief that can be given to creamery operators in the form of a tax reduction or stabilization will be an assistance towards economic salvation for many operators. The Ontario Government have leaned over backwards to help the producer to better his economic condition. The creamery industry have been doing an outstanding job of helping the producer by returning such a high percentage of the consumer's dollar. It should not be too much to ask that clarification be made in the application of the business tax, and that where the tax has been increased that it should be reduced to a common level, a level that is in line with all the factors of the requirements of the industry.

Confusion in Present Application of Business Assessment

During 1959 fifty-one creameries were surveyed as to the percentage of business tax applied. It must be kept in mind that only one creamery in about six operates as a creamery only. Owing to the limited returns in creamery operations the enterprise is usually tied in with fluid milk distribution or poultry or eggs and in a few cases ice cream or other dairy products as cheese manufacture and milk powder.

The 51 creameries surveyed, without regard to other products made, had the following business tax rate:

20 assessed at 60%

4 assessed at 36 to 50%

12 assessed at 26 to 35%

10 assessed at 25%

4 had assessment made on divided basis of 25 and 60%

1 had apparently no assessment for business tax.

Classified in part on a basis of products made the following results hold:

7 creameries operating without any other business paid 35% or less.

7 creameries operating without any other business pay 60%.

7 creameries operating with other business pay 60% on total operation where 25% should apply to other part of business.

4 creameries operating at 60% with balance of operations charged at 25%.

7 creameries operating with other products where the tax percentage appears to be a compromise to strike a reasonable figure between 60% and 25%.

There are several creameries operating where the business tax levied on the business is held in line with the retail business tax level.

Two creameries have had their business assessment reduced from 60 to 35%.

We state there is confusion in the interpretation and application of the business tax in the creamery industry. We again state that we consider the attempt to apply the 60% business assessment to creameries is not a just interpretation.

At this point we would like to add a statement by the Honourable L. Frost in a debate in the House on April 4th, 1950.

"How they arrived at these percentages over the years no one here knows."

We suspect the assessors have and are having something to do with the interpretation at least.

The Assessors Attitude

There are many municipal assessors who sincerely try to assess the properties on a fair and equitable basis in order to raise the required funds for the municipality. They consider all factors, along with the ability of the business to pay. The development of county assessors has frequently brought a new attitude to assessing. It is one of raising tax money by the application of the highest rate obtainable from the Act and the highest method of evaluating the property or business. This is not true in all cases but it is noticeable in some counties. In one county all creameries but one are 60% and the county assessor has made it plain, contrary to the council's decision in one municipality, that that creamery too will have to come up to 60%.

In another county an operator with 52% butter and 48% poultry and eggs, on a dollar volume of business pays 60 percent. The same assessor has approved another operator for 70% of value at 60% business assessment rate and 30% at 25% business assessment rate. The 25% applies to an egg business

and locker storage.

Another area has, we believe, no creamery paying as high as 60%.

Another instance has come to light where a business assessment, made by a local municipal assessor marked the rate at 60%, but it actually figured out to 35%. The latter figure was apparently what the local assessor considered in his judgement, fair and reasonable and in relation with other business tax levies. The sixty percent written in was apparently for the satisfaction of the county assessor.

We have at least two creameries being assessed at 60% and they are happy with the situation. Their total tax to the municipality is reasonable. They would not object to a higher property evaluation if the business tax was lowered to result in the same total. This is another case where the local assessor thinks in terms of fair and reasonable and in line with taxation in the municipality.

Services Provided By the Municipality

Taxes are, according to law, an assessment against property and business in return for services rendered by the municipality to the property and its occupants and to the business.

Creameries complain in many cases where they pay sixty percent compared to retail business at 25-35% that they receive far less service. Creameries usually locate at the edge of a business section because it offers certain facilities they need.

In the business blocks the pavement is usually extended to the sidewalk, whereas creameries have a strip of dirt road. Lighting is more adequate and parking is regulated. In the case of several towns the snow is removed from in front of the retail stores but what about the creamery? The snowplow goes merrily along, piles the snow up in his driveway and against his front door and he can dig his way in in the morning.

An adequate waste disposal is a prime need of creameries and yet few small municipalities take this into consideration when they ask 60% business assessment from creameries, but only 35 for retailers and make no provision for waste disposal.

The creamery enterprise pay exceptionally high bills for water. It is high enough to be classed in some cases as a subsidy. We know of

operators paying as high as \$1,000 in a village. This undoubtedly results in lower domestic rates than would otherwise be obtainable.

It is the contention of this Association that based on services rendered by the municipality to the creamery business that a business assessment of 25% is ample.

The Position of Towns and Villages

Most of the creameries are located in towns or villages or adjacent thereto. In twenty years one hundred and fifty of these creameries have closed. What has this meant to total taxation and to employment in these smaller communities? What has it meant to a small community not to have the drawing effect that a creamery has on rural business when they bring in the cream and spend the cash in the retail stores?

In an era of centralization of industry it should be the policy of every small municipality to hold every type of industry they can. Creameries are a particular type of industry that compliments both urban and rural economy and should be held if at all possible.

One way to do this is to maintain a taxation plan that will encourage this type of business. We have in mind one creamery enterprise in a town of 2,000 that has expanded and is exceptionally successful. They yearly increase employment. What does the town do for them? The town fathers love this company. It is the greatest thing that has happened to their town in fifty years. - The Taxes - the taxes are not based on what they can squeeze out of the company, but on what they think the company is worth to the town. The business assessment is 60%, but the property assessment compensates. Here is another case of good judgement, which the assessment manual provides for, but apparently is not always read by assessors.

Ontario Business Tax Assessment Compared to Other Provinces

The butter industry is Canada-wide and interprovincial trade is extensive. Taxation in Ontario could be a definite factor in the economic position of Ontario operators when compared with other provinces.

Prince Edward Island

There is no legislation of a provincial nature covering business tax. The city of Charlottetown have a business tax.

Nova Scotia

The province have no general business tax of the nature in force in Ontario.

New Brunswick

This tax is not widely used in New Brunswick. Only two or three municipalities have a business tax including Fredericton and Marysville. This is done by special legislation and the plan used has been adapted from Ontario.

Quebec

We have no response to an enquiry sent to Quebec.

Manitoba

The assessment Act provides for a business tax in Manitoba. It is based on the fair estimated rental value of the property. It may be higher, the same, or lower than the actual rent paid where the property is rented. Owner occupation rental value is arrived at by use of a guide, comparing with local rents and good judgement.

The business tax levy shall not exceed 15% of the rental value for any type of business except for Veterans clubs and hotels registered under the Liquor Control Act where the tax shall not exceed 12% of the rental value. This would be a maximum of \$180 a year on property that rented for \$100 a month. Not all municipalities use the maximum.

In lieu of business tax certain municipalities may use a licence fee which may not exceed fifty dollars a year per business establishment.

In projecting the 15% of the rental value to Ontario conditions, where rental value is considered to be one of the basis for making assessments of property. The business assessment would be roughly equivalent to twenty-five percent. This seems like a reasonable rate and there is certainly no discrimination between business operations in Manitoba.

Saskatchewan

Saskatchewan base their business tax on the floor space in use. For example in a creamery the assessment for business tax is as follows:

Office space . . .	\$3.00	per sq. ft.		
Receiving room . .	1.25	"	"	"
Processing	1.25	"	"	"
Cold storage . . .	1.00	"	"	"
Other storage. . .	.50	"	"	"
Crate storage (only)	.25	"	"	"

There is very little difference in rate per square foot between different industries and certainly none between different sections of the dairy industry.

The maximum rate in any municipality is limited by the facilities of the municipality that enhances the value of the business such as paved roads, railway, water, sewage, population of the municipality and of adjoining municipalities. By this method, the rate established may be only 70% in one municipality of what it is in another.

It is rather difficult to estimate the relative amount of tax paid in Saskatchewan compared to Ontario but it would appear to be considerably less than 60%, but possibly a little more than 25 for dairy industry plants.

Alberta

Alberta base their business tax on a percentage of the rental value in cities. The tax may not exceed 25% of rental income or \$250.00 on a property rental value of \$1,000 a year. It may be anything less than this figure. In other municipalities the tax may be based on assessment or rental. The assessment method is the more popular one and on a creamery for business purposes would be \$2.00 per sq. ft. for the first 1,000 sq. ft. and 50 cents for the balance. This business assessment is paid for at the regular mill rate. It would appear from our rough calculations that in municipalities other than cities the business tax would be roughly equivalent to the 25% in Ontario, but in cities it would be somewhat higher if the maximum were used. Each municipality is permitted to use a flexible approach to the business tax and the property or business owner may appeal and ask for special considerations on a basis not considered by the assessor. There is no discrimination in the business tax between dairy enterprises in any one municipality.

British Columbia

British Columbia have a dual system and may use a licencing system, or business assessment or both. Where a business tax is used it must be reduced by any licence fees paid if the municipality are also using a licencing system.

In all cases the municipality is empowered to set up their own system. They classify business and determine rates. Where a business tax

is used it must be based on a fair rental value. Very few municipalities use the business tax, the licencing system being the popular method. We have not available any rates currently in use. However the licence may not exceed, for each establishment, in a village, \$200.00, in a town \$300.00, a city or district with a population of 10,000 or less \$500.00, 10,000 to 50,000 - \$1,000.00, over 50,000 - \$1,500.00.

The maximum rate on a creamery could be quite high if the creamery were very small. However, thinking of one large operation in Ontario now paying 60 percent would only be paying 7.2 percent or a saving of \$1,600.00 a year. This same creamery if located in any municipality under 10,000 population with its present assessment would pay less than 30 percent licence fee.

Summary

In summarizing this presentation as a basis for our request we list our arguments as follows:

1. There is a wide range in the application of percentage tax and there is definite confusion on the interpretation.
2. We would suggest the assessors interpretation that creameries are manufacturers and not in a class with milk distributors and cheese makers is a very doubtful interpretation.
3. The creamery business for the most part are under economic pressure and cannot maintain their enterprise unless all possible action is taken to facilitate their continuation.
4. The services rendered by the municipalities to creamery operators does not justify the application of a 60% business assessment.
5. The small municipalities need to guard the small type business, particularly creameries to ensure their continuance.
6. Ontario creameries compete with other provinces where the business tax, if any, is uniform within the dairy industry and is roughly equivalent to our 25%.
7. Creameries are in direct competition with cheese factories for procurement of raw material, they perform a similar function in processing farm products and in supplying a high quality food product to the consumer. It should not be unreasonable to expect a similar basis of taxation.

8. Creameries provide a very essential service to primary producers, particularly in areas where intensive farming is not practical and there is only one type outlet for a milk product.
9. Creameries are returning the highest percentage of the consumer's dollar to the primary producer of any food product in Canada, and have actually reduced the spread in the past ten years. They have sacrificed their economic position in many cases to accomplish this.

Honourable Mr. Minister: Our Association, on behalf of our members, specifically request that consideration be given to amending the Assessment Act to specify that milk distributing plants, cheese factories, and creameries shall not be assessed for a business tax at a rate greater than 25 percent. If it is not practical at the present to amend the Act, we would ask you to consider making a directive to all municipalities that the interpretation of the Assessment Act shall be that creameries are classed the same as milk distributors and cheese factories as unlisted and should not exceed 25 percent.

We wish to thank you for your kind consideration in meeting with us today.

W. R. Howey, President

H. G. Webster, Secretary

ONTARIO CREAMERYMEN'S ASSOCIATION
Box 198,
Woodstock, Ontario.

SUPPLEMENTAL SUMMARY

We have made a careful study of the business tax assessment as it is applied in Ontario, as well as other provinces. We have been more than convinced that the business tax in Ontario is a patchwork of many years of legislation that is in great need of a complete overhaul....in fact it needs to be completely re-written. We do not criticize anyone for the present Act other than to comment that it is apparently a result of trial and error of many years, during which the economic conditions of many segments of the economy have completely changed.

We would like to make the following general recommendations to be considered in the approach to the business tax assessment. The rate of business tax should be based on the following criteria :

- (a) The regular and special services rendered by the municipality to the business.
- (b) The advantages that the municipality offers to the business: i.e. readily available markets, transportation facilities, etc.
- (c) The general level of taxation.

We would strongly urge that a careful study of the Saskatchewan plan be made. There are a number of principles established in that province that appear to the writers to be very fair to business development and operation in any given area and over periods of economic changes.

With special reference to creameries, we have been required in the past year or two to give special attention to waste disposal. Some municipalities provide this service to creameries and all other businesses for that matter, from the general tax levy. Other creameries and dairy plants, all of whom have a special problem in waste disposal, have to provide their own system. A suitable system will cost anywhere from \$1,000.00 to \$50,000.00. In a number of municipalities where a waste disposal system is being installed, creameries and milk plants are asked to capitalize their share of the waste disposal installation.

B R I E F

FOR PRESENTATION TO

THE HONOURABLE MINISTER OF THE DEPARTMENT OF

MUNICIPAL AFFAIRS

PROVINCE OF ONTARIO

RELATING TO THE MATTER OF

MUNICIPAL TAXES ON UNOCCUPIED NEW HOUSES

("THE ASSESSMENT ACT" RSO 1960 Chapter 23 - Section 131 Refers)

JULY 12, 1962

ONTARIO COUNCIL NATIONAL HOUSE BUILDERS ASSOCIATION

The purpose of this Brief is: -

ONE

To draw attention to the current interpretations of the Assessment Act in respect of municipal taxes levied on unoccupied and unsold completed and partially completed houses built for sale.

TWO

To show the onerous effects of such interpretations upon House Building Industry in Ontario.

THREE

To seek the Honourable Minister's assistance in securing alleviation of the hardship caused by current interpretations of the Act and to offer constructive suggestions as to how this might be accomplished.

SECTION ONE

CURRENT INTERPRETATIONS OF THE ASSESSMENT ACT

The relevant portions of this Act forming the basis of our submission are set out hereunder -

The Assessment Act - Section 131 - Chapter 23 of the Revised Statutes of Ontario, 1960

Section 131 - Subsection 1

"An application to the Court of Revision for the cancellation, reduction or refund of taxes levied in the year in respect in which the application is made, may be made by any person.

- (a) in respect of a building that was vacant 3 months or more during the year" - - - (other lettered subsections are not applicable)

Subsection 13

"An application for a cancellation, reduction or refund under Clause (a) of subsection 1 is applicable to all classes or properties except - - - " (lettered subsections (a), (b), (c), and (d) not applicable to cases under review are omitted).

Subsection 13 (e) excepts: -

"A building where the rent is unreasonable, where the building is not suitable for occupation by a tenant, or where the applicant has not continuously endeavoured to have the building occupied."

Subsection 13 (g) excepts: -

"A building or part of a building unless it remained unfurnished during the period in respect of which application is made."

- (1) At present it is the practice of municipalities to enter new houses on their Assessment Rolls at the date upon which the Assessor first becomes aware that a house is "reasonably completed."

Such houses then bear taxes at the full rate applicable to occupied houses regardless of whether they are occupied or not.

There are many examples of new houses remaining unsold and unoccupied for periods of well over 12 months.

- (II) Although the Assessment Act Section 131, Subsection 9 sets out the scale of remission or reduction of taxes which may be granted on unoccupied houses there have been decisions in the Courts and by the Ontario Municipal Board that such relief cannot be granted unless it be shown that the houses have been offered for rental occupation.

It will be our submission that this is a discriminatory and onerous imposition upon the Merchant Builder - the builder whose products are built and offered for sale to the Public.

By far the majority of houses built in this Province fall into this category.

SECTION TWO

THE EFFECTS OF CURRENT INTERPRETATIONS OF THE ASSESSMENT ACT UPON THE HOUSE BUILDING INDUSTRY

- (1) To illustrate the extent to which current legislation affects the Housing Industry we submit the following: -
- (a) As of May 31st, 1962 Central Mortgage and Housing Corporation list 1928 completed unsold houses located in metropolitan and major urban areas of over 25,000 population in the Province of Ontario.
 - (b) To these must be added the unsold completed houses in many other substantially populated areas other than the above for which official figures are not available and which it is conservatively estimated account for a further 550 houses.
 - (c) The above figures refer only to completed unsold houses whilst it has been shown earlier in this submission that municipal taxes are attracted before houses are completed.

We estimate that there would be not less than 750 more houses in this classification.

Summary	Total (a) above	1928
	(b) above	550
	(c) above	<u>750</u>
Estimated total of vacant houses for which municipal taxes are being paid		<u>3228</u>

- (d) Assuming taxes for each of these properties at the low average of \$350 per annum, it will be seen that the Housing Industry's resources are being depleted at the rate of well over one million dollars per year (\$1,129,800) for taxes on vacant houses.

This non-productive expenditure (which can never be recaptured) by the industry is extremely harmful and we believe cannot in fact be justified by the municipalities.

- (II) The Merchant Builders stock in trade, without which he cannot carry on his business, is his houses and the levying of taxes as shown above is in fact a municipal tax upon his stock.

This we submit is discriminatory since it is not possible to point to another producer whose "stock" is subject to municipal taxes.

- (III) We respectfully submit that the imposition of full taxes on new completed unoccupied or partially completed houses cannot fairly be justified for the following reasons:

- (a) The largest element of municipal taxes is invariably in respect of Education. Levying of tax for this purpose on non-existent children in vacant houses is not reasonable.
- (b) For the same reason we point out the inequity of taxes imposed for elements to cover garbage collection, recreation facilities, etc. on unoccupied houses.

- (IV) The present requirement that a Builder must show that houses have been offered for rent before reduction of taxes can be considered fails to recognize the terms and conditions under which the Builder of houses for sale is required to operate.

It furthermore does not give consideration to the vital differences between houses which can be offered for rental and houses built for owner occupants.

These factors we will show make it impossible or at least onerous for Builders to offer houses for rent which were not initially built for that purpose.

- (a) Houses for Owner occupation are granted loans at least 15% greater than those for rental purposes. Reversion to rental occupation results in automatic cut back of the loan.
- (b) Rental Houses are designed from their inception both structurally and financially to produce an economical and attractive rent directly related to the expenditure concerned.

This cannot be achieved satisfactorily by changing from an owner occupant conception to a rental basis.

- (c) With an already substantial equity locked in an unsold property the merchant builder compelled to accept reduced loans and unable to recover his equity usually represented by down payments obviously cannot long continue to operate.
- (d) We sincerely question whether it was the real intention of this section of the Act to require properties built specifically for sale to be offered as rental accommodation before qualifying for the reduction of taxes as permitted by the Act.

SECTION THREE

REASONS FOR REQUESTING AMENDMENTS TO CURRENT LEGISLATION

- (1) In reviewing the effects of municipal taxes imposed on unsold new houses we believe that weight has not been given to a number of factors bearing directly on this point.
- (a) Municipalities receive a substantial increase in rateable assessment and taxes collected immediately upon registration of a plan of subdivision in respect of the land or lot concerned - and probably long before a building is erected.

From that time until occupation is effective there is little or no call for expenditure on municipal services which is not fully covered by other imposts.

- (b) It is common practice now for municipalities to levy capital grants on all new dwellings payable when granting building permits.

These capital grants vary in amount and may be as high as \$700 per house. This sum is not necessarily related to any cost which a municipality may be bearing because of the erection of such new dwellings.

- (c) It is now and has been for some time in many areas common practice to require the builder/developer to install, at no expense to the municipality, a full range of what are euphemistically known as "municipal services" (roads, sidewalks, street lights, water, sanitary and storm sewers, etc.)

Many new communities, some very substantial in area, have been developed this way at infinitesimal cost to municipalities.

Despite this well known fact houses built in such areas carry assessment at the same basic rates (very often a higher rate) as areas which have been serviced by the municipality, and accordingly represent capital expenditure by the local authority.

This inequity only serves to heighten that which rules when full taxes are imposed on vacant and unsold houses located in areas serviced at the builder/developer's expense.

- (d) The Builder whose business and investment is in the construction of houses for owner occupation receives different and less favourable consideration than his competitor whose investment and work is in the construction of apartments.

The latter appears to have no difficulty in securing the permitted remission or reduction of taxes on vacant apartments.

This is a discrimination which we feel could not have been the intention of this part of the Act.

- (11) It is our submission that Builder/Developers render invaluable service to the municipality by attracting new citizens of substance to a community and providing the municipality with a source of new revenue which will last indefinitely.

Accordingly we ask should he not be entitled to be treated with fairness in the matter of municipal taxation?

- (III) In suggesting possible solution to what we propose is an anomolous situation caused by current interpretation of the Act we would willingly acknowledge that there are certain circumstances which may rule in a given municipality that, without destroying our contentions in any significant way, could in such specific instances, place some conditions on our reasonings given above.

We refer to the propriety of a municipality seeking a fair return on its capital outlay in, for instance, providing a larger sewage plant or trunk sewer to permit development of a given area which is not to be recovered from capital grants or other imposts.

Even this, however, could not be the justification for imposition of full taxes upon vacant and partially completed houses. It should be possible to take into account such instances in arriving at amendments to present procedures.

- (IV) In the belief that our reasoning as set out above will merit the Honourable Minister's serious consideration and approval we beg to suggest amendments be made to current practice and legislation to permit: -

- (a) No municipal taxes to be levied until a new house has been sold by the builder.

or

- (b) In cases where justification is shown to exist reduced taxes only would be levied from the time the house is added to the Assessment Roll until the Builder gives notice of it being sold.

or

- (c) That a period of six months grace be allowed to the builder, free of tax, after completion of an unsold house or until the house is sold whichever is the shorter period.

and

- (d) That there be concise direction given specifying the stage of construction at which taxes shall be levied on newly built houses.

It is our sincere hope that the foregoing submission will permit a full appreciation of the validity and urgency with which we seek the Honourable Minister's assistance in securing revision of existing procedures.

It would be our privilege to provide any further information which may be required on any of the statements or suggestions made in the foregoing and it is most respectfully requested that the undersigned deputation representing the Ontario Council of National House Builders Association be granted the favour of an interview with the Honourable Minister of Municipal Affairs for this purpose.

ONTARIO LOCAL ASSOCIATIONS
of
NATIONAL HOUSE BUILDERS ASSOCIATION

<u>Associations</u>	<u>Secretaries</u>
BARRIE BUILDERS' ASSOCIATION	W.A. Smith, P.O. Box 305, Barrie.
BRANT COUNTY BUILDERS' ASSOCIATION	Mrs. Marion Church, 158 Park Ave. Brantford.
BROCKVILLE HOUSE BUILDERS ASSOCIATION	
CORNWALL HOUSE BUILDERS ASSOCIATION	
ELGIN & ST.THOMAS BRANCH - NHBA	Albert Hernandez, Big 4 Building Supply, 38 First Ave., St.Thomas
FRONTENAC HOME BUILDERS ASSOCIATION	Mrs. Nancy A. Dewar, 541 College St. Apt. #4, Kingston.
GALT/PRESTON/HESPELER HOME BUILDERS ASSOCIATION	Gordon Renwick, 55 Victoria Ave., Galt.
GUELPH HOME BUILDERS ASSOCIATION	Robert Flack, 23 Hales Crescent, Guelph.
METROPOLITAN HAMILTON HOME BUILDERS ASSOCIATION	A.D. Wylie, Room 314, 42 James St. N., Hamilton.
KITCHENER/WATERLOO HOUSE BUILDERS ASSOCIATION	Keith Good, 175 Islington Ave., Kitchener.
LAKEHEAD HOUSEBUILDERS ASSOCIATION	Stan Malinoski, P.O. Box 266, Fort William.
LONDON HOME BUILDERS ASSOCIATION	Henry Murray, 721 Dundas St., London.
NIAGARA PENINSULA HOME BUILDERS ASSOCIATION	Douglas Shurgold, 95 Shakespeare Ave., St.Catharines.
NORFOLK COUNTY HOUSE BUILDERS ASSOCIATION	Wilfred Saunders, 15 Bell St., Box 939 Delhi.
NORTH HALTON BUILDERS ASSOCIATION	H.H. Bairstow, 232 Guelph St., Georgetown.
OSHAWA BUILDERS' ASSOCIATION	D.C. Trivett, 369 Oshawa Blvd.N. Oshawa
HOME BUILDERS ASSOCIATION OF GREATER OTTAWA	Col. William Boss, 13 Ivy Ave., Ottawa
PETERBOROUGH HOME BUILDERS ASSOCIATION	Fred Kayser, 263½ George St. Clapper Building, Peterborough
QUINTE HOME BUILDERS ASSOCIATION	K.G. Duesbury, 281 Albert St., Belleville.
NHBA - SARNIA BRANCH	Hunter MacKenzie, P.O. Box 192, Sarnia.
SAULT STE.MARIE HOME BUILDERS ASSOCIATION	George F. Lambert, 85 Great Northern Road, Sault Ste.Marie
SUDBURY HOUSE BUILDERS ASSOCIATION	Ernest Brisson, 1124 Madeleine St. Sudbury.
TORONTO METROPOLITAN HOME BUILDERS' ASSOCIATION	W.G. Clements, 82 Bloor St. W., Toronto.
GREATER WINDSOR HOME BUILDERS ASSOCIATION	Don Hanes, 336 Westchester Dr., Riverside.
WOODSTOCK HOME BUILDERS ASSOCIATION	S.E. Lane, c/o H.&K. Concrete Specialties Ltd., Woodstock.

SUBMISSION
to the
SELECT COMMITTEE on the MUNICIPAL
ACT and related ACTS
by the
ONTARIO FEDERATION OF AGRICULTURE
June 12, 1962

June 12, 1962.

Mr. Hollis Beckett, Chairman,
and Members of the Select Committee
on the Municipal Act and Related Acts.

Gentlemen:

On behalf of the Ontario Federation of Agriculture I have pleasure in transmitting to you a submission dealing with the Municipal Act and related Acts -- especially the Assessment Act.

For several years the OFA has been giving earnest study to the problems of municipal assessment and taxation. In previous annual presentations to the Premier and Members of the Cabinet, we have made specific recommendations which appear in APPENDIX I of this report, a number of which have been implemented by Government action, and a number of which we believe are still in the interest of farm people and should be considered by your Committee in its study.

In one of its most recent submissions to the Government of Ontario the OFA urged that a Select Committee of the Legislature be appointed to go into taxation and related problems, at the municipal level, as fully and deeply as possible. The OFA wishes to commend the Government on its decision to establish such a Committee. This opportunity to meet with the Committee to present some preliminary views of the OFA is warmly taken.

Yours sincerely,



William G. Tilden,
President,
Ontario Federation of Agriculture.

SUBMISSION
to the
SELECT COMMITTEE on the MUNICIPAL ACT
and RELATED ACTS
by the
ONTARIO FEDERATION OF AGRICULTURE

Mr. Chairman and
Members of the Committee

Having considered the terms of reference of the Select Committee the Ontario Federation of Agriculture wishes, at this time, to deal only with matters related to municipal financing, especially costs of Education. Accordingly the major portion of this brief will be devoted to comments on the Assessment Act and municipal financing together with some general observations on the function and operation of municipal administrations. The recommendations contained herein are based on resolutions emanating from county and commodity member groups of the OFA, from major opinions expressed in some 40 county Federation meetings, as well as from discussions by approximately 200 Farm Forum groups.

There are two basic problems faced by rural people with respect to municipal financing:

- (1) The municipal tax load on farm properties has ceased to bear a reasonable relationship to farm income. (See APPENDIX 2).
- (2) In municipalities of mixed urban and rural populations the burden of tax falls with inequitable severity on the rural segment. This is especially true where there are few commercial and/or industrial properties to bear their due share of the tax load.

In all of the discussions and resolutions, which have formed the basis of this submission, it is clear that the

most important item of municipal costs is Education. Education alone is in excess of 50% of the average rural taxpayer's bill.

Another complaint was that our present system of real property taxation does not take into consideration ability to pay.

Another problem arises because real property is taxed to provide services for a largely urban segment of population in a mixed farm-urban area, while there is no indication that such services are required by the farm segment.

Finally, the question has been raised as to whether the present organization of municipal governments is practicable under conditions of a population possessed of greatly increased mobility as a result of the universal use of the motorcar.

As the Select Committee faces the above issues they will appreciate that in some areas of the province problems have increased to such an extent that some immediate short term relief will have to be provided. In these areas present taxation is so high that it is already a burden on the agricultural community. In other areas we still have time to correct the mistakes of the past and so control our development that further problems will be handled more easily.

We therefore propose two sets of recommendations -- those of an immediate and short term nature to alleviate the present problems, and those which require long range solutions and which must be considered even though unpalatable to governments and people at the present time. These solutions we must develop if we are to establish economic stability in our public financing.

SHORT TERM SOLUTIONS

1. Redistribution of Education Costs

Since the biggest single item on the tax bill is Education, any action by Government to reduce the cost of Education on farm property would be of assistance. This could be done by applying the education tax to that portion of the farm assessment which pertains to the farm house. Thus, the farmer would contribute on a comparable basis to the urban class of dweller in the same municipality. The redistribution of the tax burden on this basis would, in itself, act as a control on uneconomical ribbon development because it would make taxes for the urban dweller in a rural area equal to or higher than taxes for the same dwelling in a truly urban centre of development. Such action would be a further complement to planning for it is our contention that urban class dwellers do not move to a rural area for fresh air and sunshine alone; they move there principally in anticipation of lower taxes.

Aside from the education costs these urban class dwellers expect the rural community to have all the amenities of roads and services that are provided in urban areas but which are costlier to provide in a largely rural municipality. If, however, this type of development is desired by the Government then we propose that the two levels of government -- Federal and Provincial -- be prepared to underwrite further costs of Education. This proposal may be objected to because of destruction of local autonomy but from our study groups we were unable to find a single school board that felt at present it enjoyed any real autonomy. Their actions are restricted by the limitations of government grants and the unrelenting and sometimes unrealistic pressures for higher salaries. Many of the school boards expressed the

opinion that they were small caretaker boards. This, we feel, is an unfortunate situation and steps should be taken to give school boards greater responsibility. We do not feel, however, that the role of the school board would be substantially changed if the teachers were to become civil servants and the further costs were to be met by the Provincial and Federal governments.

2. Controlled Farm Assessment or Controlled Taxation

The change in use of land from agriculture to housing or industry tends to be gradual. We find that the value of the raw land increases as the demand for its use for other than agricultural purposes becomes greater. Thus we find islands of agricultural land within centres of urban development. Although the value of the land has changed, its ability to produce income has not changed. If a tax is applied which bears a relationship to non-agricultural use, the land very often has to be sacrificed by the agricultural owner because of his inability to pay the taxation. In many cases the owner is also prohibited from getting the optimum value for the land in the market because of planning controls. For this reason we think it only fair that if development is prohibited for the good of society then society must be prepared to give more concessions by means of taxation to compensate for the controlled use of the owner's land. Fixed assessment or fixed taxation on farm lands could be an immediate solution to this particular problem. (See APPENDIX 3).

LONG RANGE SOLUTIONS

1. New Basis for Collection and Redistribution of Taxation Revenue for Education _ _ _ _ _

Referring again to the mobility of people, a situation has emerged where a high percentage of the labour force is resident in one municipality and employed in another. This creates a situation where the industrial and commercial tax wealth in a municipality may bear no relationship to the services required by the municipality. This inequitable tax base results in inequitable taxation from municipality to municipality.

Our proposal is to collect industrial and commercial taxation for educational purposes on a provincial basis and redistribute this revenue on a per pupil basis for the support of our present public and separate school systems at elementary and secondary levels only. We would suggest that the levy for industrial and commercial development be a provincial rate rather than a local rate -- i.e. we do not suggest that industrial or commercial properties continue to pay school taxation on the basis of the area in which they are located but rather there should be established a fixed rate for the province or, at least, for areas within the province. This fixed rate could be used to influence the location of industry in areas in which they might not otherwise choose to locate. We can appreciate this proposal is politically unpopular but certainly if we are to continue our present system of real property taxation we must consider the greater measure of equity that such a system would introduce.

2. Assessment of Real Property at Market Value

Our present taxation of real property is impeded in its attempt to achieve equity by a system of assessment based on 1940 values and a 1904 Assessment Act. Much of the real property created to-day cannot be judged or valued by 1940 values and buildings created in 1940 may be functionally

obsolete and have little or no value in the market. Under present assessment practices it is a known fact that the average farm in Ontario is assessed at 40% of its value and the average urban type home in a rural area is assessed at 25% of its value. This inequity would be corrected if property were to be assessed at market value.

The meaning of "market value" can be interpreted in many ways and has been commonly described as the price paid by a prudent purchaser to a prudent vendor. In Bill 149 of the Third Session of the Twenty-Sixth Legislature, (The Provincial Land Tax Act), "market value" has been described as "that price that a property might be expected to bring if offered for sale in the open market by a person who is solvent."

We would suggest that "market value", for purposes of assessment, should be based on a three- to five-year average of sale prices in the area and that the sale price should be evaluated to take into account such things as a forced sale, unusual financing, deed restrictions, etc.

3. Taxation of Real Property for Services to Land Only

Earlier we raised as one of the problems the fact that one cannot tax real property for services to people because real property bears no relationship to the services which people require. We would therefore suggest that land be obliged to maintain its present share of road costs plus the costs of administration and other property services; and that all other services, presently provided for in whole or in part by municipal financing, be met by monies raised through existing or additional sources of revenue.

4. Taxation and Planning

Reference has been made earlier to the necessity of controlling our costs by economic land use policies and controlled development. Although the province of Ontario has perhaps one of the better Planning Acts, it is ignored, ill-used and abused by municipalities because of the tradition that the council which dares to plan will usually fail to be elected. The Community Planning Branch could perform a more

useful service if it would not wait until a municipality was in trouble before offering assistance but would actively initiate and direct planning for a municipality. The dollars of provincial revenue that have been wasted because of the lack of planning would more than cover the cost of such a program. Instead of begging municipalities to plan it might be practical to refuse to give them grants if they did not plan.

The Community Planning Branch of the Department of Municipal Affairs could be ably assisted in its activities in rural areas by the Agricultural Representative. Because of the Agricultural Representative's broad knowledge of rural areas, and because of his experience in working with farm people, he is the most knowledgeable individual on the problems of the agricultural community with respect to land use and planning. The assistance of the Agricultural Representative will be particularly necessary where planning and land use are related to ARDA (Agricultural Rehabilitation and Development Act).

5. Assessment Appeals

To the land owner, one of the more distressing features of the Assessment Act is the fact that when the land owner has appealed his assessment to any of the judicial bodies, he has no assurance that the Assessor will be obliged to abide by the decisions of the Courts on future occasions. In Ontario, the situation has arisen where land owners have successfully appealed their assessments in one year only to find that the Assessor has placed the former assessments on the properties for the next year. Thus the land owners are faced with the same costly procedure and inconvenience to obtain justice. This problem could be corrected if the cost of the action were awarded against the municipality when the Court upholds the appeal of the owner. If the land owner loses his appeal then he is responsible for his own costs.

OTHER BROAD AREAS
RELATIVE TO THE SELECT COMMITTEE'S STUDY

1. A study should be made of municipal boundaries to devise more representative units of administration. We have rural townships with populations ranging from a few hundred to fifty thousand people. Certainly if the latter is a representative form of government, the former could be amalgamated with some other adjacent municipality. Amalgamation of this type could be most effective where municipalities are weakened by annexation or by abandonment of farm properties. Many township councils feel now that, like the school boards, they are only caretaker governments. If this is true, perhaps we should consider means of strengthening the county system of government. Even the boundaries of counties might have to be adjusted if we are to do an effective job of regional planning.
2. The functions of the Municipal Board, as a judicial branch of the government, should be thoroughly examined for some of the incongruous situations in which the Board finds itself -- e.g. the Board makes decisions on official plans and then acts as a Court of Appeal on its own decisions.
3. Problems of representation on elected councils and appointed boards are created as a municipality moves from rural orientation to urban orientation and the needs of the rural population are often lost or ignored by a predominately urban population. Some legislative means, as the ward system, should be used to protect rural representation on councils, planning boards and other municipal administrations in rural areas.
4. Considerable concern is expressed by farm people because of the fact that facilities of the school are not always available for the use of the local community. We appreciate that the use of schools by other organizations may create janitor and administrative problems but these buildings are provided by the taxpayers of the municipality and there should be some assurance that they are available to the community.

5. Although gambling may be considered a moral rather than an economic issue, the OFA feels that if we are to continue to ineffectually control gambling and lotteries we should at least seek to have the revenues provided by these activities funnelled back into our public accounts for purposes of the necessary police and administrative costs involved.

In conclusion, we appreciate that our comments may not present definitive solutions. This organization does not have the financial resources to study in detail all of the side effects of the implementation of any of our recommendations but we do feel that these comments express an awareness by the agricultural community of the need to preserve its identity as an economic and social factor in our society.

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APPENDIX I

(Excerpt from OFA Annual Report 1956)

REPORT BY THE STANDING COMMITTEE ON RURAL ASSESSMENT AND TAXATION

Presented by J. A. Ferguson, Past President

The committee's conclusions may now be given. Although certain items have been accepted as part of government policy, it is felt desirable to include these since, in most cases, they have in no wise been made mandatory. The findings are as follows:

With respect to Assessors and assessor training:

1. that all counties appoint county assessors;
2. that a county assessor's office be established in each county;
3. that all municipal assessors within a county be hired by the county and supervised by the county assessor;
4. that county courts of revision replace township courts of revision and that these courts be independent of existing councils and councillors;
5. that one assessment manual be used throughout the province;
6. that competent assessors only be hired and these on a full time basis;
7. that training and refresher courses for assessors be established and that certification by these eventually be made a condition of employment, and further, that municipal councils be encouraged to ensure that their assessors participate in such courses;
(It should be mentioned that a course for assessors has been prepared and offered by Queen's University under the auspices of the Association of Assessing Officers of Ontario.)

With respect to education costs:

8. that the capital costs of school buildings be borne by the provincial or federal governments, or both;

With respect to the Assessment Act:

9. that the Assessment Act be amended to make possible the application by municipal councils of a minimum assessment on dwellings;
10. that the business tax on commercial property be applied on the basis of gross volume of business done rather than on the assessed value of the building occupied by the business;
11. that a clearer definition of "farm" be given for assessment purposes;

With respect to the Assessor's Manual:

12. that the application of the rental factor be defined more clearly;
13. that greater differentials between assessed values of various soil classes be established, particularly with regard to the better soils.

Respectfully submitted,
The Committee on Rural Assessment
and Taxation of the
Ontario Federation of Agriculture,
J. A. Ferguson (Chairman)
R. S. Heatherington
E. Simpson
H. R. Lucas
C. Hooper
G. Greer
L. Jasper.

APPENDIX 2

(Excerpt from OFA Presentation to Cabinet
December 22, 1960)

A prime item of farm expense in almost all sections of the province is the municipal property tax. A comprehensive analysis of the effect of the farmer's tax contribution on his economic well-being, or its size in relation to taxes paid by comparable segments of the economy outside of agriculture is difficult. Farmers themselves would be primarily concerned with the relationship between municipal taxes and ability to pay. While ability to pay may not be the sole guide to the justness of a tax load, it must have, ultimately, an important bearing. Consider the circumstances which farmers face. During the period from 1926 to 1946, total annual municipal taxes on owned farm land and buildings in Ontario ranged between \$12.8 million and \$17.4 million. In 1946, when taxes amounted to \$13.9 million, a steady upward trend began. By 1959, the municipal tax burden on farmers had reached \$42,290,000. This is an increase of more than 200% in 13 years. During the same 13-year interval, net income from farming operations registered an overall gain of only 29%. It is true that there was an appreciation in the value of farm land and buildings during the same period, but this amounted only to about 73.5%. On the basis of these few calculations it is easy to see why farmers are exercised. In areas adjacent to or within urban municipalities the weight of the tax on farm land is especially severe, since urban extension has forced the farmer to assume a large share of the cost of services for which he has felt no need. The problem has other aspects, among which the effect on farmers of recent legislation designed to control ribbon development along highways and urban sprawl is of major interest.

In November of this year the OFA, in annual convention, gave attention to assessment and taxation. In keeping with the resolution arising from the discussion on this topic the OFA requests the Ontario Government to establish a Select Committee to examine the fields of assessment and taxation, municipal finance, and municipal administration with a view toward a more equitable distribution, as between urban and rural ratepayers, of the costs of education and other services, including costs of municipal administration, as well as to study the undesirable features of present methods of land use control. Implicit in this recommendation is the suggestion that traditional bases of tax application, especially for educational purposes, may not meet the requirements of the present day.

We recognize and appreciate the efforts of the Government through unconditional grants and through standardization of assessment procedures to correct injustices. However, we believe that such measures, while affording some relief, are merely refinements of an ancient system -- a system which may be of questionable merit in to-day's highly industrialized economy.

APPENDIX 3

(Excerpt from the LAND USE REPORT of the Conservation Council)

TAXATION AND USE

Taxation is a major factor influencing land use.

Land cannot be farmed economically once taxes rise much above the level of those in the average farm community. Time after time in recent years we have seen uncontrolled urban sprawl spread into the rural areas, with the consequent demand for new schools and other services. The inevitable result is higher taxation for the farmers and decay of the farming community.

Most farming involves long term planning, whether it be to reseed a field, build new fences or plant a new orchard. No farmer will gamble on making these capital expenses if there is a threat of major increases in taxes.

If, therefore, land is to remain in agriculture anywhere near our large cities, and is to be farmed properly, assurance of tax stability is a prerequisite. Immediately the tax level threatens to become too high the land is either forced into idleness, condemned to exploitation farming or else broken up for sale in residential parcels. The key to tax stability for agricultural land lies, of course, in establishing a uniform assessment base for farm land irrespective of where it is located.

The tax problems of most of the urban areas are equally unsatisfactory. Proper land use planning could well establish what areas should be devoted to industry and commerce, to housing, to schools or to parks. However, our tax structure does not permit this. We have fragmented the level of our tax collecting to such a point that each little area has to have a tax assessment role balanced between residential and industrial. Wrong land use patterns are forced upon virtually all of our municipalities. This is expensive for government and industry alike.

This problem would, of course, be eased and better land use planning would be possible if taxes were collected on a regional basis and redistributed from there, and if planning were also placed on the same regional basis.

The compilation of the necessary data to enable planning authorities at all levels to make sensible land use decisions is not a large task using modern methods. It could probably be done for the whole of southern Ontario in four years at an acceptable cost. Such data must include soil surveys and existing land use maps. From these, land capability maps can be compiled.

In conclusion, and in very broad and simple terms, we believe that a solution to land competition might be found in the following manner:

- (a) By compiling the necessary survey data and establishing the optimum land use.
- (b) On a positive basis by planning public works, particularly highways, in such a manner that the land use pattern is least disrupted and even improved by directing development into desired areas. This would necessitate consultation among the Departments of Highways, Agriculture, Lands and Forests, Planning and Development, and Municipal Affairs.

- (c) By arranging for the establishment of Regional Planning Boards; by establishing uniform assessment procedures in each Region; and by collecting centrally all taxes in each Region for redistribution to municipalities on an equitable formula basis, such that industrial and residential development could be concentrated economically in a properly planned way.
- (d) By ensuring that the Department of Municipal Affairs uses its authority under the Planning Acts to classify land as follows:
 - (i) Class A - Prime agricultural land, which cannot be sold for non-agricultural purposes without reclassification into Class B which would require the approval of the Departments of Municipal Affairs and Agriculture.
 - (ii) Class B - Second grade agricultural lands, or prime agricultural lands which for some reason (e.g. adjacent to cities) had been reclassified. These lands could be changed to Class C at the discretion of the owner at any time but could not be resold for non-agricultural purposes unless this were done. Reclassification to Class C would be permanent.
 - (iii) Class C - All other lands including urban, suburban and rural awaiting development.
- (e) By passing legislation at the Provincial level under which Class A and B lands were assessed and paid taxes on a rural basis, whether or not they lay within the area of a Regional Planning Board or were adjacent to urban development.

The above system would permit land owners to plan their agriculture on the Class A soils on a long term basis with the assurance that taxes would remain at acceptable levels. It would permit Class A and B lands to continue in farm production right up to the urban perimeters. It would protect the major part of our valuable soils for the future with the minimum of controls. It would permit better urban planning. Finally, while not eliminating all land competition, it would result in this competition being confined largely to those lands whose changed use would be least harmful.

In closing this section of the Report, it should be remarked that while at first sight the classification of farm lands into A, B and C might appear punitive to the land owner, in fact we do not believe this to be the case. Lands which will be taken out of agricultural use for residential-industrial purposes in the next 20 years are those adjacent to our cities. We are not recommending that such lands be placed in Class A, but rather in Class B. Offsetting any loss of freedom to sell for non-farm purposes, it will be noted that we have made a positive recommendation, highly favourable to the agricultural community, for a more equitable tax load.

SUBMISSION TO THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS
BY
ONTARIO FOREST INDUSTRIES ASSOCIATION
OCTOBER 3, 1962.



SUBMISSION
TO THE
SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS
BY
ONTARIO FOREST INDUSTRIES ASSOCIATION

OCTOBER 3, 1962

SUBMISSION
TO THE
SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS
BY
ONTARIO FOREST INDUSTRIES ASSOCIATION

OCTOBER 3, 1962

1. Ontario Forest Industries Association is a non-profit non-share-capital corporation incorporated under the laws of the Province of Ontario. The members of the Association consist of lumber companies, pulp and paper companies and independent woods operators, who collectively hold timber cutting rights granted by the Ontario Government on approximately 80 per cent of the Crown licensed forest lands of Ontario. This brief is presented on their behalf.
2. The purpose of the brief is to request an exemption from business assessment under The Assessment Act of licensees under The Crown Timber Act.
3. Until recent times, most Crown timber licences covered only lands situate in remote areas and areas without municipal organization. Today the situation is different and municipalities, particularly in connection with new mining operations, are being formed in larger territorial units such as Improvement Districts or Townships. The commendable object in so doing is to overcome problems caused by shack towns which in the past often became established just outside the limits of the older type of smaller incorporated municipalities and which were parasitic upon the municipal services of such municipalities. The practice of incorporating municipalities with large territorial areas has, however, the inadvertent effect of including large areas of Crown timber limits within the boundaries of such municipalities, which raises the question of assessability for business assessment of the licensees of such areas.

4. Timber licensees should not be expected to pay business assessments on the vast areas of forested Crown lands with respect to which they hold nothing more than a right of access for the purposes of cutting and extracting timber and on only a small portion of which areas they normally carry on their operations at any one time. The very limited nature of the rights granted to a timber licensee under The Crown Timber Act are apparent from the provisions of that Act, which provides, amongst other things, that:

(a) A Crown timber licence does not confer on the licensee any right to the soil or freehold of the licensed area or the exclusive possession thereof, except as in the opinion of the Minister of Lands and Forests may be necessary for the cutting and removal of the timber thereon and the management of the licensed area and operations incidental thereto. (Section 9)

(b) The area of cutting operations must be approved by the Minister before any cutting operations may commence in any year. (Section 13)

(c) The Minister may terminate a Crown timber licence on thirty days' notice with respect to any part of the licensed area which the Province may wish to dispose of by sale, lease or grant, whereupon all the rights of the licensee cease in respect of the timber on such part of the licensed area. (Section 18)

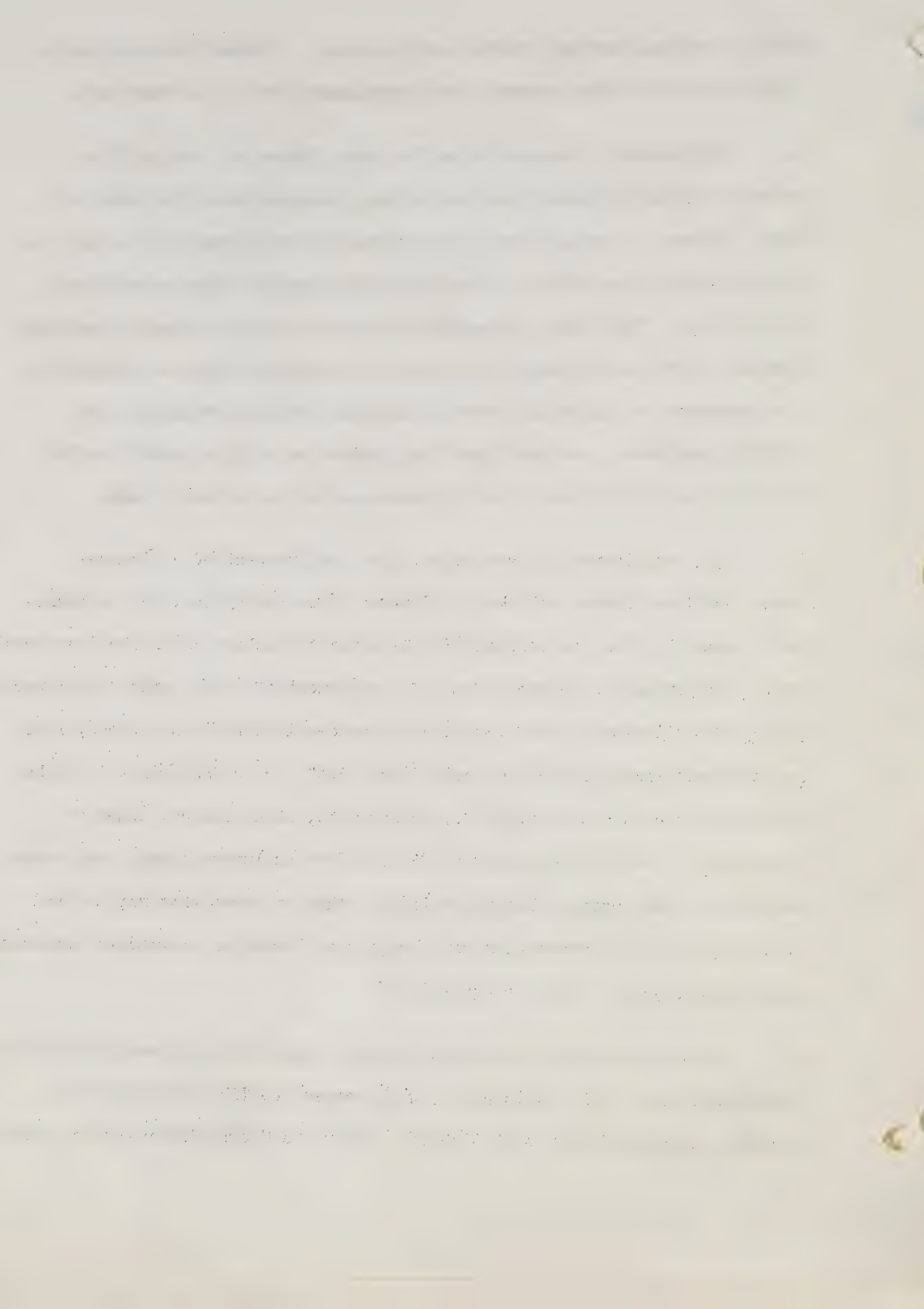
5. The Crown has the right to, and in fact does, accord to other persons, for other purposes, rights to use the lands which are included in a Crown timber licence. For example, other persons may obtain licences with respect to the cutting of different species of timber on the same lands, and licences of occupation and travel or other permits may also be issued enabling other persons to use the same lands for various other purposes, such as prospecting,

mining, camping, hunting, fishing and trapping. A timber licensee has no right to exclude other persons (even trespassers) from a licensed area.

6. Furthermore, licensees under The Crown Timber Act now pay fire protection charges, ground rent and stumpage charges under the terms of their licences. They also pay Corporations Tax and Income Tax, as well as Ontario Logging Tax which is a tax not levied against other industries in the Province. They build and maintain roads at their own expense, maintain forestry staffs to implement the forestry management practices required by the Department of Lands and Forests, maintain and make available fire fighting equipment, and carry out fire protection policies which benefit the Crown lands held under their licences as well as adjacent lands.

7. The Legislature has recognized that the interest of a licensee under The Crown Timber Act should be exempt from realty tax. By an amendment passed in 1961, subsection (5) was added to Section 34 of The Assessment Act. That subsection exempts from the assessment of Crown lands "the interest of a timber licensee, lessee, grantee or concessionaire in a licence, lease or agreement issued under The Crown Timber Act", or in "any right in timber cut or to be cut by the holder of, or party to, such licence, lease or agreement, or to such improvements or equipment as lumber camps, tote roads, telephone lines, hoists, logging railways, dams or booms that may be used only temporarily in connection with logging or lumbering operations conducted under such licence, lease or agreement."

8. This Association, therefore, strongly urges that any Report which this Committee makes to the Legislature, with respect to The Assessment Act, include a recommendation that licensees under The Crown Timber Act be exempt



from business assessment. A suggested wording for an appropriate amendment to The Assessment Act is attached hereto for your consideration.

All of which is respectfully submitted this 3rd day of October, 1962.

ONTARIO FOREST INDUSTRIES ASSOCIATION

By:

A handwritten signature in blue ink, appearing to read "R. Mills", written over a horizontal line.

Manager

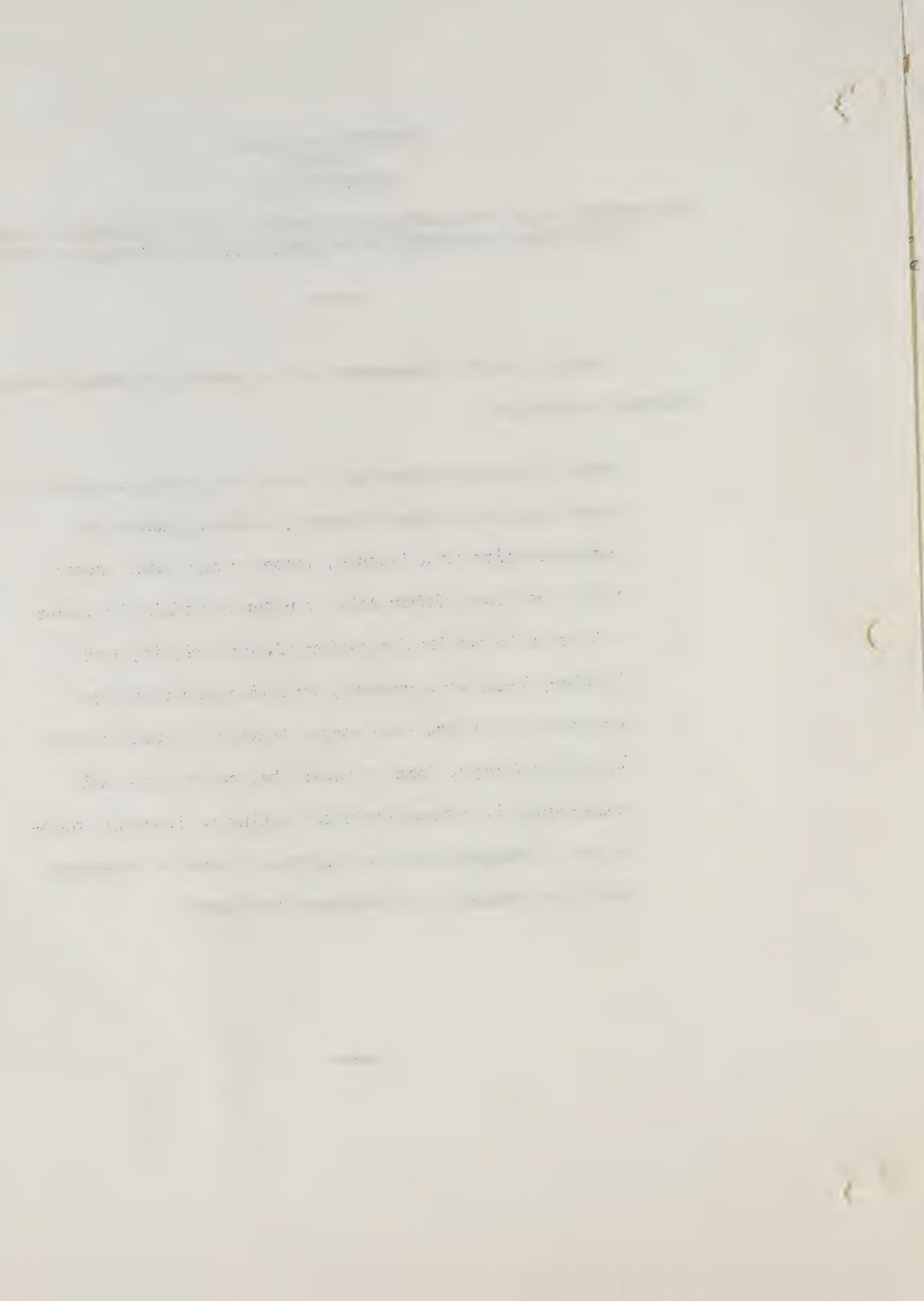
How about a pool in the
hall game the afternoon

SUGGESTED AMENDMENT
TO THE
ASSESSMENT ACT

AS REFERRED TO IN THE SUBMISSION OF ONTARIO FOREST INDUSTRIES ASSOCIATION
TO THE SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS

Section 9 of The Assessment Act is amended by adding thereto the following subsection:

Notwithstanding subsection 1 hereof no person occupying or using land as a timber licensee, lessee, grantee or concessionaire in a licence, lease or agreement issued under The Crown Timber Act, or under any right in timber cut or to be cut by the holder of, or party to, such licence, lease or agreement, or such improvements or equipment as camps, tote roads, telephone lines, hoists, logging railways, dams or booms that may be used only temporarily in connection with logging or lumbering operations conducted under such licence, lease or agreement, shall be assessed for 'business assessment'.



SUBMISSION OF THE ONTARIO MUNICIPAL ASSOCIATION
TO THE SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS
OF THE LEGISLATIVE ASSEMBLY, PROVINCE OF ONTARIO

INTRODUCTION

The form and content of this brief has been approved by the Executive Committee of the Ontario Municipal Association for presentation to the Select Committee on The Municipal Act and Related Acts by a special committee composed of Ernest C. Reid, Vice-President, Eric Hardy, Secretary-Treasurer and William R. Allen, President, ex officio.

Each year the Ontario Municipal Association makes a presentation to the Government arising from resolution and reports considered at its annual convention. The more important proposals are selected for submission to the Provincial Cabinet; the remainder are placed before the Minister of the responsible Department.

In undertaking to place proposals before the Select Committee, our Executive Committee had four points in mind:

1. The Association did not want to detract from the form or content of its annual submission to the Cabinet and to individual Ministers, believing that this method of placing the views of our members before the Government has been fruitful and has proven mutually beneficial.
2. While our Association has a long history, it has not been staffed to carry out any comprehensive study of the statute law relating to local government. The Association is in the midst of an expansion of its activities which may make such an undertaking feasible at some later time. Meanwhile, however, the immediate demands of the current expansion programme would permit even less time than ordinarily to be allotted to such an assignment.
3. While a substantial proportion of those annual proposals of the Ontario Municipal Association seeking statutory amendments are in due course implemented, some remain which in our opinion continue to merit government action. It was decided, therefore, that a selection of such proposals from the annual submissions of recent years should form the main content of this brief.
4. It is hoped that the personal attendance upon your Committee of certain officers of our Association who are familiar with its established policies and attitudes may also assist your Committee to test out ideas which have been advanced to it by others.

During recent years, the Government of Ontario has given the Ontario Municipal Association recognition in a variety of ways. Cabinet members and senior civil servants have accorded ready attention to its petitions. Representatives from our Association have been included as observers at the last several Dominion-Provincial Conferences. We were given a place on the Provincial-Municipal Relations Committee and its successor organization, the Municipal Advisory Committee. We are represented on the Minister's Advisory Committee on

Child Welfare. The Provincial committee responsible for recommending changes in highway finance has met at length with the members of our Special Roads Committee. Through all these avenues and more, the influence of the Ontario Municipal Association upon government policy has undoubtedly been felt.

More specifically, we have sought and obtained increases in financial aid to local government and desired changes in legislation of concern to municipalities. The extent of such legislative changes is illustrated by the experience of the past seven years. Over that period statutory amendments have given effect in whole or in part to at least 132 of our resolutions. Of that total, 82 proposals were adopted in full.

In reiterating other proposals on which the Government of Ontario has not yet seen fit to act, we would indeed be remiss if we did not acknowledge once again the gratitude we feel for the co-operation and support for our work which has been constantly accorded to our Association in the ways we have indicated.

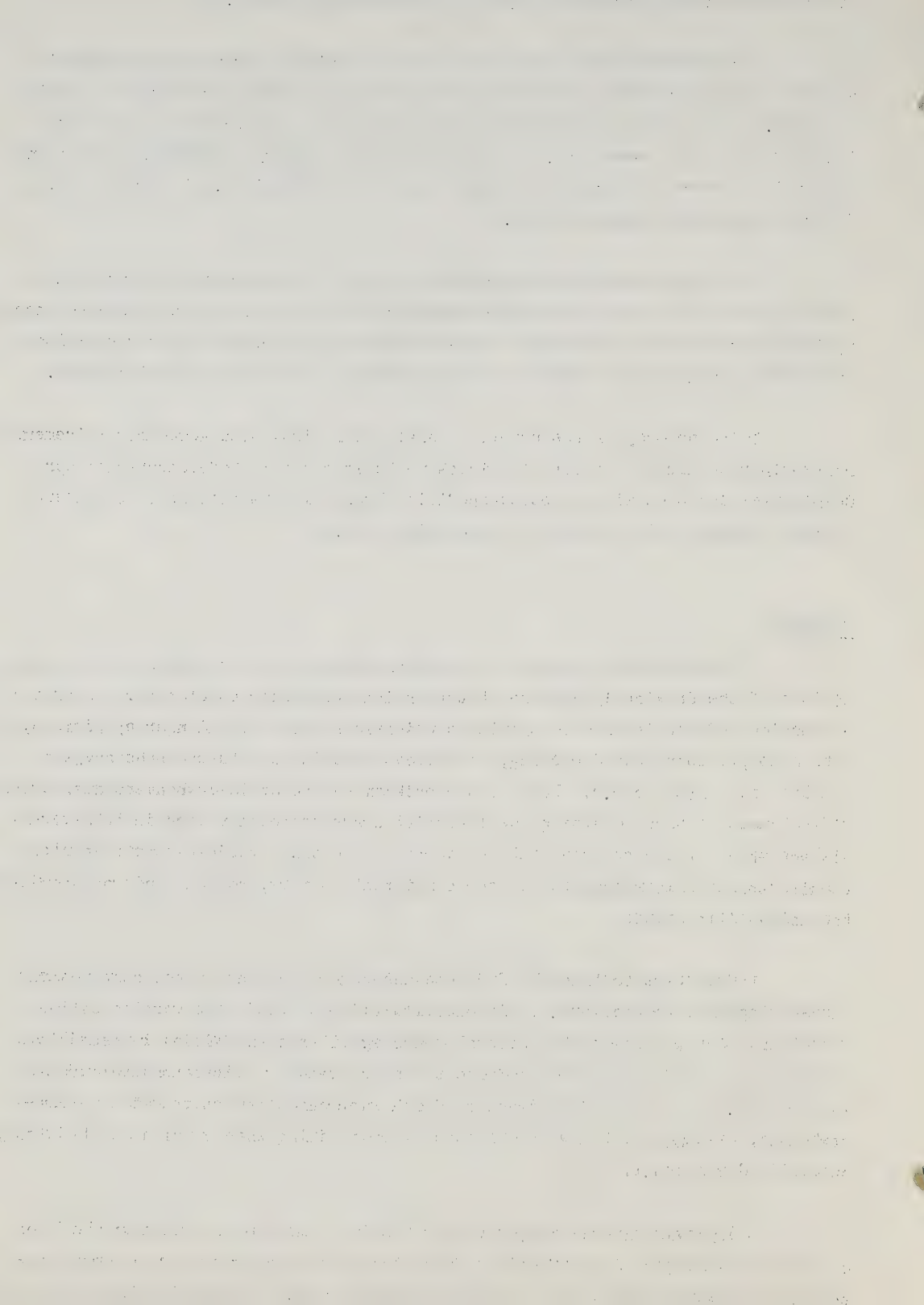
In the body of the brief, we shall deal first with a general requirement respecting municipal statute law which we believe should be of concern to your Committee and then with proposed specific changes in the Municipal Act and ten other statutes which follow in alphabetical order. ✓

UPKEEP

The necessary process of periodic amendment of the statutes and regulations of the Province gives the statutes an increasingly complex form, unless a conscious effort is made to eliminate provisions which are no longer applicable, to simplify complicated wording, to improve indexing and to keep the subject matter in logical order. Part of the problem can be avoided when amendments are first made if those drafting the legislation are thoroughly versed in the overall content of the revised statutes and have the time, capacity and stature to require that all amendments be kept consistent in form, content and location with the law as it stands.

From time to time the Province has begun cleaning up the statutes and restoring them to good order. As one illustration, the first portion of The Municipal Act was re-written several years ago. Then the official responsible for the work left the public service to enter private practice and the project was dropped. Yet the limited amount which was accomplished at that time demonstrated, we suggest, the worth of such an undertaking when carried out by highly qualified personnel.

A province whose yearly budget has for some time exceeded one billion dollars can surely find sufficient funds to pay the going rate for enough competent legal draftsmen to keep its statute law in order. Indeed, it might be more accurate to say that the Province of Ontario can no longer afford to allow inadequate staffing to interfere with the proper presentation of the large and growing body of legislation of concern to local government bodies and others.



A sufficient municipal legislative establishment should be able to point out in advance any prospective inconsistencies between proposed and existing legislation. It can assist the responsible departments, and notably the Department of Municipal Affairs, in maintaining a thorough understanding of the statute law which each must administer. It should be able in due course to re-write all the existing statutes having to do with local government and thereafter to maintain all such statutes in proper order. The benefit of this work to local governments would we suggest be substantial and, among other things, would contribute in no small way to law observance and enforcement.

THE MUNICIPAL ACT

1. To Avoid Second Election When Insufficient Candidates Qualify

That the procedure called for under Section 50 of The Municipal Act requiring a new election when insufficient candidates qualify for council at the nomination meeting be reviewed with the objective of finding some means of avoiding this situation such as the postponement of the municipal elections until sufficient persons have qualified to complete the required number for each elected body.

2. Recognition of the Council-Manager Plan in General Legislation

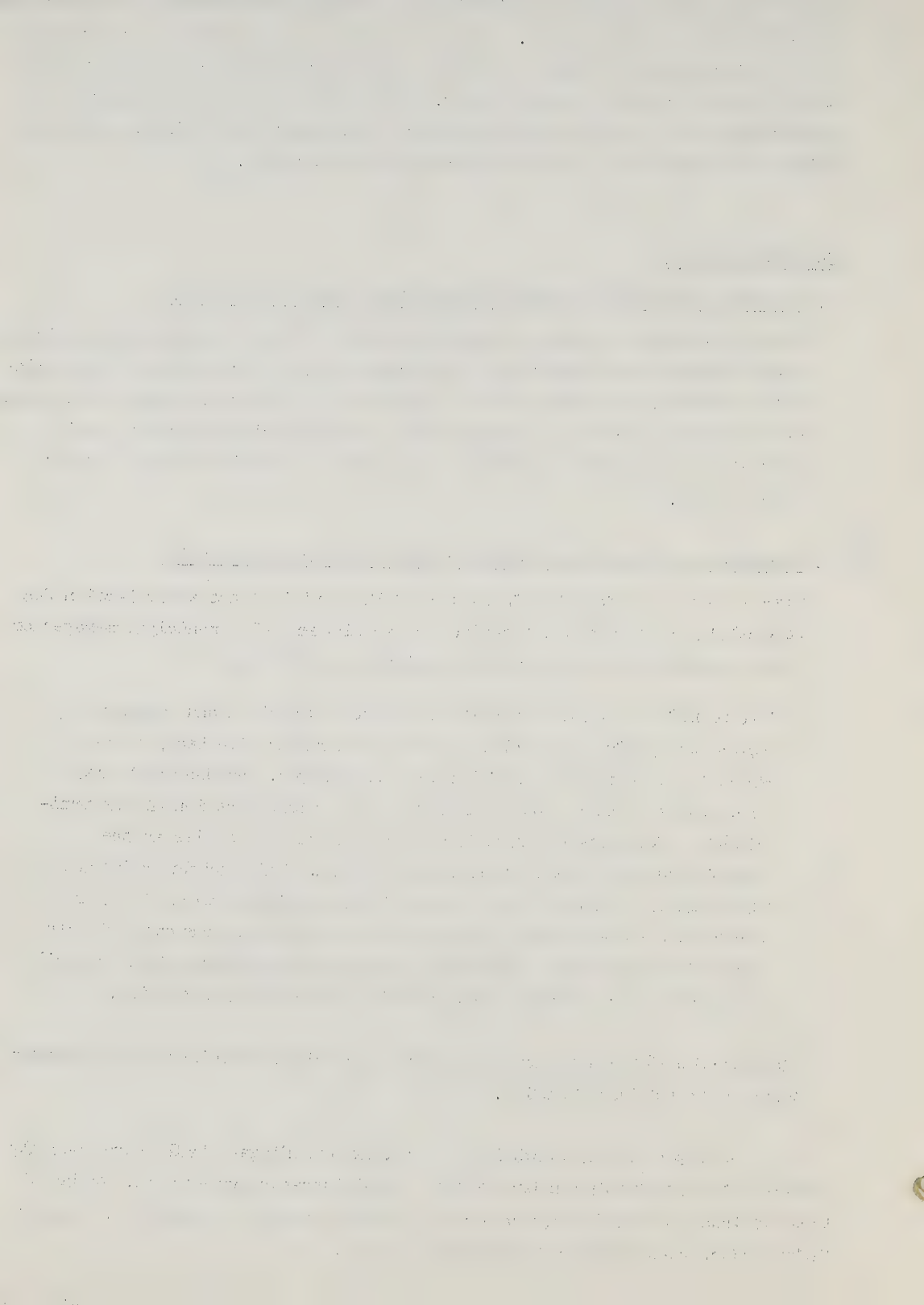
That a section be inserted in Part 8 of The Municipal Act after Section 214 recognizing as a permissive option the appointment of a municipal manager or chief administrator and worded approximately as follows:

"The council of any municipality is hereby authorized and empowered by by-law to appoint and employ a general administrative head, to be known as the municipal administrator or manager, and who shall have such general control and management of the administration of the municipality's government and affairs and perform such duties as the council may by by-law in that behalf define, limit and determine and who shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them and who shall hold office at the will and pleasure of the council and receive such salary as the council by by-law may determine."

That Section 236 be amended to require a municipal administrator or manager to make a declaration of office.

At the close of World War II, Chatham and Niagara Falls were the only Ontario cities operating under the chief administrator arrangement. Today at least thirteen of the thirty-one Ontario cities can be so classified. Nowhere is this fact recognized in general legislation.

It is not the intention of this suggested addition to The Municipal Act to interfere with the statutory duties laid down for such officials as the clerk, the treasurer, the assessor, the medical officer of health, etc. A chief



administrator, however, may himself be assigned some statutory office as a further appointment from the municipal council. At the same time, the administrator can be given seniority over such people. Just as the council can exercise authority over a statutory officer (the assessor, for example) provided it does not interfere with his statutory obligations, so the council could delegate the authority over statutory officers which it is in a position to exercise to the municipal administrator and exercise its control over such people through him.

3. To Permit Debenture Proceeds to be Lent Temporarily for Other Approved Capital Purposes

That, in order to assist municipalities in reducing the amount of bank borrowing for capital purposes, Section 303 (1) of The Municipal Act be amended by an addition approximately as follows:

"provided that if such money, or a portion of it, is not immediately required for the purposes for which it was raised it may be loaned for the payment of any capital expenditures which have been approved by The Ontario Municipal Board and provided further that such loan is repaid as soon as the money is required for the purpose for which it was borrowed and in any event by December 31 of the final year of the municipal council's term of office and provided further that the fund from which the money was loaned is credited with interest calculated at the rate received by the municipality on its bank deposits."

4. To Permit Municipalities to Place Idle Funds with Trust Companies

That Section 302 of The Municipal Act be amended to permit any municipality to invest with Canadian trust companies monies which are not required immediately by the municipality.

5. Permissive Legislation to Authorize Combined Administration or Operation of Police and Fire Services

That the Provincial Government amend The Municipal Act and other Acts as required to permit a municipality to institute combined administration or operation of police and fire services if it so desires.

As initially adopted, the Association's resolution sought municipal permission to replace the traditionally separate police and fire services with a single department responsible for both these aspects of public safety and with personnel holding combined responsibilities wherever feasible. A later proposal that only the administration and direction of police and fire services be combined and that uniformed personnel other than the chief and any deputy chiefs be assigned exclusively either to policing or firefighting was put forward in an effort to secure a half-measure knowing that there was opposition to granting the complete integration originally requested even on a permissive basis.

The study which has been given to this whole subject by The Ontario Municipal Association has indicated strong opposition to either form of change

and a number of practical problems which would have to be overcome to introduce either arrangement. It has demonstrated, on the other hand, that combined operations are feasible and apparently can prove beneficial especially in smaller urban municipalities.

6. To Permit Police Commissions in Cities Over 100,000 to Exercise Responsibility for Licensing Installers of Television Aerials and Heating Equipment

That the authority contained in Section 379 (1) of The Municipal Act enabling councils of local municipalities to pass by-laws licensing installers of television antennae (paragraph 7) and heating equipment (paragraph 131) be made available to Boards of Commissioners of Police of cities having a population of not less than 100,000 by the appropriate additions to Section 401.

THE ASSESSMENT ACT

1. To Define "Farm" and "Farmer"

That the words "farm" and "farmer" be defined for assessment purposes.

In undertaking to define these words, it would of course be necessary to take note of special provisions applicable to farmlands or farmers such as those contained in Sections 35 and 37 of The Assessment Act. Attention is also drawn to the existence of a particular definition of "farm" in Section 18 (7) of The Public Schools Act.

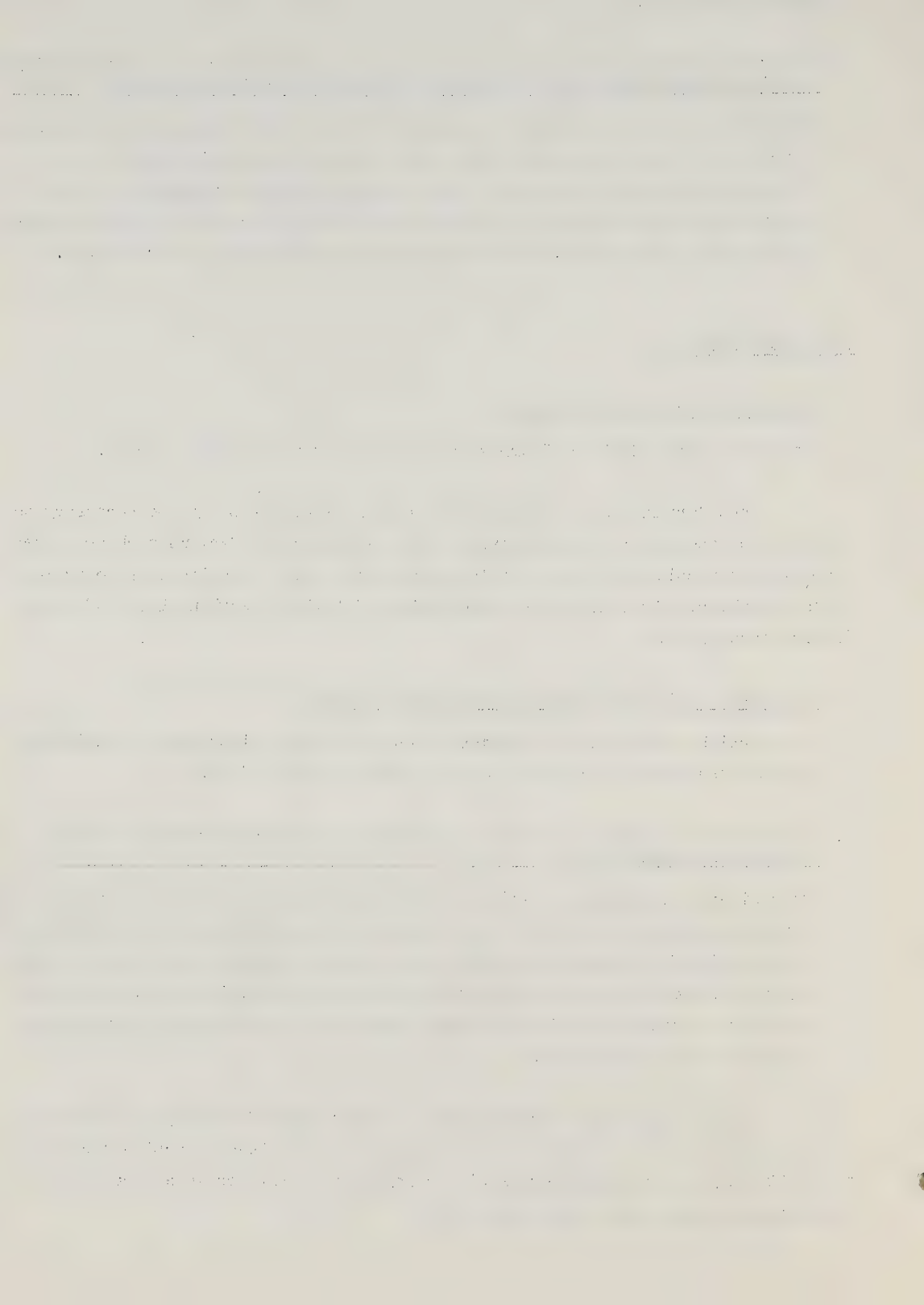
2. To Raise the Minimum Business Assessment to \$200

That Section 9 (8) of The Assessment Act be amended to increase the minimum business assessment from the present figure of \$100 to \$200.

3. To Clarify for Taxation Purposes the Method of Assessing Portions of Land Occupied in Common

That suitable amendments be made to The Assessment Act in order to clarify for taxation purposes the method to be followed in apportioning the assessments on land occupied in common, including land used for business, and also to ensure that as equitable an arrangement as feasible for determining the assessment and the resultant burden falling upon owners and upon business occupants is provided for in legislation.

According to our understanding, the Department of Municipal Affairs is in sympathy with the objective of the proposal but has withheld action because of the difficulty of preparing legislative changes which will prove adequate in dealing with this most complicated matter.



4. To Revise the Provisions Governing the Assessment of Telephone and Telegraph Companies in Rural Areas

That consideration be given to the provisions now governing the determination of telephone and telegraph assessments in townships on a mileage basis which are contained in Sections 10, 11 and 12 of The Assessment Act with a view to introducing revisions in the legislation which will enable these properties to be assessed in as realistic and equitable a manner as possible.

5. To Revoke the Special Provisions Governing Assessment of Pipelines

That Section 41 of The Assessment Act be revoked thereby making transmission pipelines assessable in accordance with Section 35 of the Act so such assessments will be equalized with other classes of property within the respective municipalities where they are situated.

6. To Amend the Procedure for Assessing Railway Lands

That Section 46 (2) (d) of The Assessment Act be amended by deleting all the words after "occupation by the company" and replacing them by the words "at its actual value in accordance with Section 35".

The effect of this change would be to retain the special provisions governing a) railway land constituting the roadway or right-of-way including structures, rails, ties, poles and the like and b) vacant land held by a railway while making the ordinary property occupied and used by the railway company subject to normal assessment and taxation.

7. County Assessor's Equalization of County Assessments to be Final

That the council of a county that has appointed a county assessor accept his report as the equalization for county purposes subject to the usual right of appeal to the courts.

8. To Allow Municipalities the Same Time Limit as Taxpayers for Appeals re Gross or Manifest Error

That Section 132 of The Assessment Act be amended to add a subsection corresponding to subsection 2 of Section 131 of The Assessment Act thereby providing the same time limit to the municipality for the appeal of a gross or manifest error which is now allowed to the taxpayer.

9. To Prevent a Taxpayer from Forestalling Correction of a Manifest Tax Error

That Section 132 (8) of The Assessment Act be ^{Deleted} ~~deleted~~ so that a municipality may proceed to correct a gross or manifest error notwithstanding the issuance of a certificate of payment of taxes as provided in Section 119 of the Act.

THE COMMISSIONERS FOR TAKING AFFIDAVITS ACT

1. Assessors to be Designated as Commissioners for Taking Affidavits

That The Commissioners for Taking Affidavits Act be amended to accord the assessment commissioner or assessor of each municipality the same standing as commissioner for taking affidavits as is now accorded to municipal clerks and treasurers.

THE FIRE DEPARTMENTS ACT

1. Determination of Work Week for Firemen to be Left to Municipal Council

That Section 2 of The Fire Departments Act be revoked, thereby restoring responsibility for determination of the system and hours of work to the municipal council. ✓

2. To Exclude Deputy Chief from Fire Department Bargaining Unit ✓

That The Fire Departments Act be amended to provide that persons reaching the rank of deputy fire chief be excluded from the fire department bargaining unit.

3. Province to Create Arbitration Board or Panel of Arbitrators for Municipal Fire and Police Negotiations

That the Province give consideration to the enactment of legislation which would establish either a permanent board of arbitration for the arbitration of agreements between municipalities and firemen or police associations or a selected list of arbitrators from which municipalities and employees' associations could choose a board of arbitration where such was required for police or fire negotiations.

THE HIGHWAY IMPROVEMENT ACT

1. Township to be Given Same Rights of Expropriation as Counties for Road Widening

That Section 66 of The Highway Improvement Act be amended to make the rights of expropriation for road widening now applicable to counties available also to townships.

THE JUVENILE AND FAMILY COURTS ACT

1. Province to Assume Entire Responsibility for Juvenile and Family Court

That the provisions contained in The Juvenile and Family Courts Act assigning certain responsibilities for the operation, administration and financing of juvenile and family courts be revoked, placing the entire responsibility for these special courts with the Province.

THE MARRIAGE ACT

1. Municipal Portion of Marriage License Fees to be Increased

That Section 38 (2) of The Marriage Act be amended to increase the portion of the marriage license fee to be retained by the issuer of marriage licenses; and that subsections 3 and 4 of the same Section be reviewed and amended in light of the change which is made in subsection 2.

THE MUNICIPAL FRANCHISE EXTENSION ACT

1. To Broaden the Terms of The Municipal Franchise Extension Act,

That the Provincial Government amend The Municipal Franchise Extension Act to permit those persons now and hereafter entitled thereby to vote at a municipal election for the head and members of council, to also cast votes for members of the school boards, for public utilities commissioners and also on questions and by-laws except where the right is now confined to persons entitled to vote on money by-laws and that, with respect to voting for school trustees, the designation on the list as a public or separate school elector be determined by the assessor in a manner similar to the declaration of school support obtained with respect to tenants.

THE MUNICIPAL UNCONDITIONAL GRANTS ACT

1. To Provide Permanent and Equitable Financial Assistance re Hospitalization of Indigents

That the present temporary plan of payment to municipalities in recognition of their cost of hospitalization of indigents through an annual amendment to The Municipal Unconditional Grants Act be replaced by a more equitable form of financial assistance to municipalities for this purpose based upon an adequate study of the residual burden borne by municipalities in relation to the present hospital insurance plan.

THE PLANNING ACT

1. To Authorize Capital Levy Against New Homes Built Upon Lands Severed by Metes and Bounds

That The Planning Act and, if necessary, The Municipal Act be amended to enable municipalities to assess at their discretion a reasonable capital levy against new homes built upon parcels of land created by metes and bounds, subject to the imposition of provincial controls over this practice paralleling those applicable with respect to new subdivisions.

THE POLICE ACT

1. See references to this Act under The Municipal Act and the Fire Departments Act.

Respectfully submitted,

THE ONTARIO MUNICIPAL ASSOCIATION



William R. Allen
President

October 5, 1962

RESOLUTIONS FROM TOWN AND VILLAGE
SECTION OF THE ONTARIO MUNICIPAL
ASSOCIATION REFERRED TO SELECT
COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS.

1. WHEREAS there has been no major revision in the composition, selection and duties of the counties and county councils since Confederation;

AND WHEREAS there has been a great shift in the economy from rural to urban in the same period;

AND WHEREAS the bulk of the population and assessment now is in the urban municipalities within the county;

NOW THEREFORE BE IT RESOLVED THAT the Town and Village Section of the Ontario Municipal Association petition the Select Committee on Municipal Affairs to investigate the following;

(a) The composition, selection, function and boundaries of Counties and County Councils.

(b) Changes in boundaries of municipalities to take into account the changes and needs of socio-economic areas.

(c) Studies of comparable cost of administrative functions and the efficiency of counties and territorial districts in the Province of Ontario.

(d) Amendments to The Municipal Act to implement the necessary changes.

- - - - -

2. BE it resolved that the Executive of the Town and Village Section of the O.M.A. is hereby instructed to prepare a brief to the Select Committee on Municipal Affairs of the Legislature based on the resolution adopted by the Executive on January 21, 1961, to investigate the County Council system.

- - - - -

3. WHEREAS Premier Leslie Frost has on several occasions stated that government representation should be on the basis of population;

AND WHEREAS the Town and Village Section of the O.M.A. agrees that Government representation by population is fair and equitable;

AND WHEREAS if representation by population is fair at one level of government, it is fair at all levels of government;

NOW THEREFORE BE IT RESOLVED THAT this Association respectfully suggests to the Ontario Legislature that when it is revising the Municipal Act representation by population be made law without the restrictions contained in Section 26, Subsection 2 of The Municipal Act, R.S.O. 1960, and that this resolution be referred to the Select Committee on Municipal Affairs.

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4. BE it resolved that the Executive of the Town and Village Section of the O.M.A. is hereby instructed to prepare a brief to be presented to the Select Committee of the Legislature on Municipal Affairs urging that the fundamental democratic principle of representation by population be no longer denied to the constituent municipalities which make up the Counties of the Province of Ontario.

COUNTY GOVERNMENT BRIEF AS PASSED BY THE TOWN AND VILLAGE SECTION
OF THE ONTARIO MUNICIPAL ASSOCIATION FOR PRESENTATION TO THE
SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS.

1. We earnestly believe that the Select Committee and the Ontario Legislature must make a searching study of our present system of municipal government. After one hundred year, we believe there are weaknesses that are costly and inefficient.
2. One of the most difficult and important problems which the Committee and Legislature must come to grips with is whether or not the county system of government in Ontario shall be continued. The weaknesses of the county system are becoming more and more apparent each year.
3. We would like to take this opportunity to point out what we consider are some of the major serious defects in the county form of government.
4. First, the county was created over one hundred years ago. Back in 1850, Ontario dealt with rural problems. By 1961, with the growth of industry, the bulk of the people live in cities, towns and large urbanized townships. Consequently, many counties have now within them very large urban and semi-urban municipalities. These urban municipalities have different problems and different views. They contain the lion's share of the assessment used for county tax purposes. We have now reached the point where the social and economic structure within many counties has undergone profound changes. It is evident, therefore, that alterations in the structure and duties of the county must come. The county is no longer a practical political unit to fit the changes of our twentieth century urbanized society..
5. Secondly, the county violates the democratic principle of representation by population. The problems have changed; the population has shifted; the assessment base is in the urban areas; yet the rural municipalities within the county still control the bulk of the votes. This reminds one of the old "Rottenboroughs" in the pre 1832 Britain. In one County, to give specific examples, three municipalities have a total population of 36,131 out of a total County population of 67,914; yet they have only 12 out of 38 votes - 53.2% of the population but less than 32% of the votes (statistics from the 1960 Municipal Directory). One municipality has a population of 388 and 1 vote on County Council; another municipality has 16,175 people with 4 votes on County Council - forty-one times as many people with only four times the votes. We cannot believe that the rural person has any more or less intelligence to direct the affairs of the county than the urban person. Let political power be proportioned according to population. How can the citizen trust a county government which does not reflect the will of the majority? It is difficult to understand why the multiple system of voting in county council should stop at a maximum of four votes for a municipality. We suspect that when this section was enacted it was believed that few municipalities would grow beyond or much beyond the four vote maximum. We do not know what magic qualities the number four has. Many towns and townships have many more municipal electors than are needed for four votes but are still restricted to four. We have prepared a chart showing representative towns and townships in many Ontario counties. The population figures were taken from

1. The first part of the document is a list of names and addresses, which are arranged in a columnar fashion. The names are written in a cursive script, and the addresses are written in a more formal, printed style. The list appears to be a directory or a roster of some kind.

2. The second part of the document is a series of paragraphs of text, written in a cursive script. The text is somewhat difficult to read due to the handwriting, but it appears to be a narrative or a report of some kind. The paragraphs are separated by small gaps, and the text is written in a single column.

3. The third part of the document is a series of paragraphs of text, written in a cursive script. The text is somewhat difficult to read due to the handwriting, but it appears to be a narrative or a report of some kind. The paragraphs are separated by small gaps, and the text is written in a single column.

4. The fourth part of the document is a series of paragraphs of text, written in a cursive script. The text is somewhat difficult to read due to the handwriting, but it appears to be a narrative or a report of some kind. The paragraphs are separated by small gaps, and the text is written in a single column.

5. The fifth part of the document is a series of paragraphs of text, written in a cursive script. The text is somewhat difficult to read due to the handwriting, but it appears to be a narrative or a report of some kind. The paragraphs are separated by small gaps, and the text is written in a single column.

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10. The tenth part of the document is a series of paragraphs of text, written in a cursive script. The text is somewhat difficult to read due to the handwriting, but it appears to be a narrative or a report of some kind. The paragraphs are separated by small gaps, and the text is written in a single column.

the 1961 Municipal Directory. The number of municipal electors were supplied by the Clerks.

CHART OF MUNICIPAL ELECTORS

<u>COUNTY</u>	<u>MUNICIPALITY</u>	<u>POPULATION</u> <u>1961</u>	<u>MUNICIPAL ELECTORS COUNTED</u> <u>FOR COUNTY PURPOSES</u>
Ontario	Whitby Town	12,501	4713
Ontario	Pickering Twp.	16,640	8256
Carleton	Nepean Twp.	16,566	7286
Halton	Georgetown	10,015	4584
Welland	Fort Erie Town	8,897	3733
Carleton	Gloucester Twp.	16,716	5868
Halton	Burlington Twp.	44,709	over 10000
Simcoe	Midland Town	8,615	3725
Northumb- erland and Durham	Cobourg Town	9,445	4101
Northumb- erland and Durham	Port Hope Town	8,072	3879
Peel	Toronto Twp.	59,983	29302
Halton	Oakville Town	10,247	4308
York	Richmond Hill Town	16,095	8006
Simcoe	Orillia Town	14,515	7039
Welland	Stamford Twp.	29,665	13160

From the examples quoted above the inequalities of representation in our county councils over a wide number of counties is obvious. There needs to be a redistribution of voting strength within counties to have voting power bear a more ^{direct} relationship to population.

6. Thirdly, the county system violates the basic principle of democratic government that those who levy taxes and spend public money must be directly, separately and collectively responsible to all the electors the same as the members of local municipal councils. County councils would be much more responsible in their actions if they had to answer directly to all the electors of the county. When the county requires other local municipal councils to raise the money to pay for its policies, the county can be nothing less than irresponsible. This evil is doubly compounded when this is coupled with the fact that the urban municipalities in many counties have become the "milk cow" of the county. In one County, the same three municipalities have 56% of the assessment yet they have 12 votes. They pay 56% of the costs but have only 32% of the say. The rural municipalities which are the minority in population and ~~they minority in assessment~~ can load the bulk of the costs on the urban taxpayer. And to make matters worse, the urgent necessities of the urban municipalities can be frustrated or turned down by the majority votes of the majority votes of the controlling minorities. Let those who pay the piper call the tune. This is the fundamental principle of all responsible government.

Recommendations:

1. That section 26, R.S.O. 1960 of the Municipal Act be amended to give additional votes to the Reeve and Deputy-Reeve as the number of municipal electors increases above 3000 i.e. 3000 - 4000 municipal electors - 1 additional vote for Reeve; 4001 - 5000 - 1 additional vote for Deputy-Reeve,

1. The first part of the report is a general introduction to the subject of the study. It discusses the importance of the problem and the objectives of the research.

2. The second part of the report is a detailed description of the methods used in the study. It includes a description of the experimental design, the data collection procedures, and the statistical methods used for data analysis.

3. The third part of the report is a presentation of the results of the study. It includes a description of the data, a discussion of the findings, and a comparison of the results with previous research.

4. The fourth part of the report is a conclusion and a discussion of the implications of the study. It includes a summary of the findings, a discussion of the limitations of the study, and a discussion of the implications of the results for future research.

5. The fifth part of the report is a list of references. It includes a list of the books, articles, and other sources used in the study.

6. The sixth part of the report is an appendix. It includes a list of the tables and figures used in the study, and a list of the data used in the study.

7. The seventh part of the report is a list of the names of the people who contributed to the study. It includes the names of the principal investigator, the co-investigators, and the research assistants.

8. The eighth part of the report is a list of the names of the people who reviewed the report. It includes the names of the reviewers and the names of the people who provided comments on the report.

9. The ninth part of the report is a list of the names of the people who provided funding for the study. It includes the names of the funding agencies and the names of the people who provided the funding.

10. The tenth part of the report is a list of the names of the people who provided technical assistance. It includes the names of the people who provided the equipment and the people who provided the technical support.

11. The eleventh part of the report is a list of the names of the people who provided administrative assistance. It includes the names of the people who provided the clerical support and the people who provided the administrative support.

12. The twelfth part of the report is a list of the names of the people who provided moral support. It includes the names of the people who provided the emotional support and the people who provided the moral support.

13. The thirteenth part of the report is a list of the names of the people who provided other assistance. It includes the names of the people who provided the other support and the people who provided the other assistance.

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and that this formula be carried out by adding one additional vote for every additional 1000 municipal electors, the vote to alternate to the Reeve and then to the Deputy-Reeve.

2. That section 11, subsection 5 of The Municipal Act, R.S.O. 1960, be amended to allow ^{TOWNS}to become cities at a population of 10,000 and townships to become cities at a population of 20,000.

SUGGESTED BRIEF RE PUBLIC PARKS ACT
CHAPTER 314 - REVISED STATUTES OF ONTARIO

THE ONTARIO PARKS ASSOCIATION IS A PROVINCIAL BODY, BRINGING TOGETHER IN MEMBERSHIP MUNICIPAL REPRESENTATIVES, LAY AND PROFESSIONAL OF THE VARIOUS PARKS AND RECREATION DEPARTMENTS SEEKING TO MEET THE NEEDS OF ONTARIO CITIZENS OF ALL AGES AT THE MUNICIPAL LEVEL THROUGH THE PROVISION OF FACILITIES AND PROGRAMME BASED ON EXPENDITURES OF PUBLIC FUNDS, CONSISTENT WITH THE REQUIREMENTS AND DESIRES OF SAID PUBLIC.

THE PRESENT STATUS OF THESE DEPARTMENTS IN ONTARIO COMMUNITIES IS INDICATED BY THE INVESTMENT WHICH THESE MUNICIPALITIES HAVE ALREADY MADE AND THE EXPANSION TO WHICH THEY ARE NOW COMMITTED OR ARE CONTEMPLATING.

"CHARGED WITH" THE RESPONSIBILITY OF PROVIDING FACILITIES, MAINTENANCE, PROGRAMME AND PERSONNEL, THEY MAKE AVAILABLE A PUBLIC SERVICE COMPARABLE TO THOSE OF HEALTH, EDUCATION AND WELFARE, ETC. FOR A WHOLE COMMUNITY WITHOUT REGARD TO RACE, COLOUR, CREED OR ECONOMIC LEVEL.

MUNICIPAL LEISURE TIME SERVICES FOR THE RESIDENTS OF THIS PROVINCE HAS CONSIDERABLE HISTORY, FIRST IN THE PROVISION OF PARK AREAS IN THE LARGER CITIES AND SECONDLY BY PLAYGROUNDS FOR CHILDREN AND PLAYFIELDS OF MANY TYPES FOR ALL AGES.

IT WAS AFTER THE FIRST WORLD WAR, HOWEVER THAT THE FIRST GREAT EXPANSION OF THESE FACILITIES TOOK PLACE, BUT DESPITE THE PUBLIC ENTHUSIASM FOR MORE PARK FACILITIES, RECREATION SERVICES AND COMMUNITY CENTRES, LITTLE EVIDENCE OF THIS TYPE OF POST WAR DEVELOPMENT REMAINED BY 1928.

EMERGING FROM A BITTER EXPERIENCE OF A NATION-WIDE DEPRESSION WAS THE REALIZATION OF THE NEED FOR ADEQUATE PARK FACILITIES AND RECREATION PROGRAMME ON THE PART OF MANY DISCOURAGED AND DEMORALIZED COMMUNITIES. DURING THE 30's (1930) PARKS MEN THROUGHOUT THE COUNTRY BEGAN TO REALIZE AND ANTICIPATE THE CHANGING FUNCTION ON THEIR MUNICIPAL DEPARTMENTS AND DEMAND FOR WIDER SERVICES TO ALL AGE LEVELS.

THESE EXPANDED SERVICES PROVIDE IN THE PROVINCE OF ONTARIO AN AMOUNT IN EXCESS OF 7 MILLION DOLLARS FOR THEIR OPERATION AND THE FACILITIES SUPPLIED AND MAINTAINED ARE OF AN ESTIMATED VALUE OF 125 MILLION DOLLARS WITH PLANS FOR THE COMING YEARS ALREADY APPROVED AND IN BLUE PRINT STAGE EXCEEDING THIS AMOUNT.

HUNDREDS OF EMINENT CITIZENS SERVE AS MEMBERS OF BOARDS AND COMMISSIONS THROUGHOUT THE PROVINCE, AND EMPLOY A GROWING STAFF AND PLAN A CONSTANTLY EXPANDING POLICY FOR MUNICIPAL PARKS AND ALLIED SERVICES. SUCH PEOPLE GIVE FREELY OF THEIR TIME, OUT OF THE PRIDE THEY TAKE IN THE COMMUNITY IN WHICH THEY AND THEIR FAMILIES LIVE.

THE PRESENT PUBLIC PARKS ACT, THE COMMUNITY CENTRES ACT, AND THE REGULATIONS GOVERNING RECREATION UNDER THE DEPARTMENT OF EDUCATION TODAY ARE INTERDEPENDENT ONE ON THE OTHER IN MANY WAYS IN THE OPERATION OF A COMPREHENSIVE PROGRAMME AT THE MUNICIPAL LEVEL BECAUSE MANY OF THE PROGRAMMES AND FACILITIES ARE OPERATED, MAINTAINED AND PROVIDED BY MONIES WHICH ARE PROCURED FROM PUBLIC TAX FUNDS.

MANY ACRES OF LANDS HAVE BEEN PLACED UNDER THE CONTROL OF OR HAVE BEEN PURCHASED BY PARKS BOARD FOR THE PURPOSE OF PROVIDING OPEN SPACES WHEREIN THESE ACTIVITIES CAN BE PUT INTO SATISFACTORY USE FOR THE CITIZENS OF THE MUNICIPALITIES THROUGHOUT THE PROVINCE.

IN THE LIGHT OF THE FOREGOING, THE ONTARIO PARKS ASSOCIATION WISH TO PRESENT THE FOLLOWING RESOLUTIONS AND RECOMMENDATIONS TO THE PROVINCIAL GOVERNMENT WITH THE VIEW OF BRINGING THE PREVIOUSLY MENTIONED ACTS WHICH GOVERN SUCH OPERATIONS UP TO DATE AND IN LINE WITH TODAY'S STANDARDS AND REQUIREMENTS.

1. WHEREAS THE PUBLIC PARKS ACT, THE COMMUNITY CENTRES ACT, AND THE REGULATIONS UNDER THE DEPARTMENT OF EDUCATION WITH RESPECT TO RECREATION, WHICH PRESENTLY ARE ADMINISTERED BY THREE SEPARATE DEPARTMENTS OF GOVERNMENT, AND

WHEREAS MUCH OF THE CONTENTS OF THESE PRESENT ACT IS APPLICABLE TO THE OTHER FOR SATISFACTORY OPERATION BE IT RESOLVED THAT THE SAID THREE ACTS BE COMBINED INTO ONE PROVINCIAL ACT COVERING ALL LEGISLATIVE FACTORS OF PARKS AND RECREATION IN ONTARIO.

2. WHEREAS THE PRESENT ACTS ARE ADMINISTERED UNDER THREE SEPARATE DEPARTMENTS OF GOVERNMENT WHICH RAISES DIFFICULTIES AND CONFUSION IN THE MINDS OF LOCAL BODIES BE IT RESOLVED THAT THE AFOREMENTIONED COMBINED ACT (1) BE PLACED UNDER ONE DEPARTMENT AND ONE MINISTER.

3. WHEREAS SECTION 12, SUBSECTION (1) GIVE THE BOARD THE RIGHT TO ACQUIRE LAND, RIGHTS AND PRIVILEGES REQUIRED FOR PARK PURPOSES AND
WHEREAS SECTION 12, SUBSECTION (3) STATES THAT TITLE OF THIS LAND SHALL REST IN THE MUNICIPAL COUNCIL AND
WHEREAS SECTION 12, SUBSECTION (5) STATES THAT THE PARKS BOARD MAY SELL OR DISPOSE OF SUCH LANDS IF IT HAS MORE LAND THAN IS REQUIRED.
WHEREAS SECTION 13, SUBSECTION (2) PERMITS THE MUNICIPAL CORPORATION TO SELL OR OTHERWISE DISPOSE OF THE LANDS.
BE IT RESOLVED THAT THE MUNICIPAL CORPORATION, HOLDING TITLE TO SAID LANDS, MAY NOT SELL OR OTHERWISE DISPOSE OF SUCH LANDS EXCEPT ON THE RECOMMENDATION OF OR WITH THE APPROVAL OF THE BOARD OF PARKS MANAGEMENT.

4. WHEREAS IT IS THE CONSIDERED DELIVERATIONS OF THIS BODY THAT CERTAIN FURTHER RECOMMENDATIONS SHOULD BE MADE.

(A) BE IT RESOLVED THAT THE SECTION OF THE PLANNING ACT WHICH STIPULATED THAT A SPECIFIC ACREAGE OF SUBDIVISION LAND BE DEDICATED FOR PUBLIC PURPOSES BE CHANGED SO THAT POPULATION DENSITY WOULD BE THE DETERMINING FACTOR AS TO THE AMOUNT OF LAND TO BE DEDICATED.

McKewen, Yoerger & Hudson
Barristers and Solicitors

Empire 4-4286
Area Code 416

C. L. Yoerger, B.A., B.Com., Q.C.
J. Drew Hudson, M.A., P.Eng.

Suite 202
121 Richmond Street West
Toronto 1, Ont.

May 18, 1962.

Select Committee on Municipal Legislation,
c/o Mr. Hollis E. Beckett, Q. C.,
372 Bay Street,
Toronto, Ontario.

Gentlemen:

This will confirm our conversation of recent date in which we requested you to strike out the word "not" in the first sentence of the second paragraph on page 6 so that the said sentence will read as follows:

"As a rule the Farm Service Feed Mill does have a large percentage volume of retail sales, and the volume might be sufficient to warrant their classification as retail merchants."

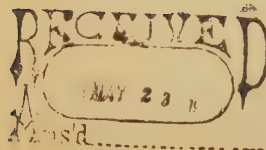
Thanking you we remain,

Yours very truly,

McKEWEN, YOERGER & HUDSON,

Per: 

JDH:ds



DIRECTED TO:

Select Committee on Municipal Legislation on behalf of the Farm Service Feed Mills that are members of the Ontario Retail Feed Dealers Association.

PROBLEM

The members of this Association conduct their business of providing service to farmers in all parts of the Province of Ontario. In the past their business assessment has run between 25% and 35% of the assessed value but now more extreme variations are occurring and a method of removing such inequities must be determined.

ANALYSIS

HISTORY

In 1904 the Legislative Assembly enacted the first real property assessment Act for the Province of Ontario.

In 1910 this was amended to provide - "Every person carrying on the business of a flour miller in a mill producing on an average less than 50 barrels a day, for a sum equal to 35% of the said assessed value." With minor variations this is now Sec. 9 (1) (e) of The Assessment Act R.S.O. 1960, Ch. 23.

Before the first World War there were very few manufacturers in Canada and the business of farming was quite unscientific. We are advised that there were small flour millers in practically every small municipality in the southern part of our Province.

Manufacturing received a great impetus in the first World War and the steady introduction of more efficient techniques in manufacturing and farming as well as other activities has resulted in Canada now having the second or third highest standard of living in the world.

During the last 30 years most of the small flour mills

FARM SERVICE FEED MILL

A Farm Service Feed Mill can be defined as a business that:

- (a) engages in the retailing of essential ingredients and materials for the production of poultry, livestock and field crops;
- (b) provides facilities for the marketing, storing and processing of farm produce on a fee or custom basis;
- (c) possesses grain milling and blending equipment with a rated maximum production capacity not exceeding 5 tons per hourly output;
- (d) disposes at retail of not less than 75% of total output from milling and blending operations.

BUSINESS TAX

However, in spite of the enormous changes that have taken place in manufacturing and farming during the past 50 years, and in spite of the enormous change in the service provided to farmers by the small flour mill of 1910 to the Farm Service Feed Mill of 1962, we have had no real change in the Ontario Assessment Act as far as business tax is concerned since 1910.

Under this Act, Municipalities are to assess real property at "actual value". Provincial assessors are available to assist local assessors in the use of the provincial manual on assessment to determine "actual value", but it is not mandatory that municipalities use the provincial manual and, therefore, there is no guarantee that assessments will be equalized in different municipalities for anything but provincial grant purposes.

The Act then sets out various categories of business for purposes of business assessment and specific varying percentages of the assessed value of the real property for each of the categories of business.

The occupant of the real property, whether owner or tenant, is liable for the business tax.

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 84

24)

It is mandatory for the municipalities to apply these percentages to these categories even though the whole basis, (namely the assessed value of real property) of the business tax is not equalized throughout the province.

WHAT CLASSIFICATION?

Problems have often arisen in determining whether a particular business fell into one category or another, - or possibly just miscellaneous at the low rate of 25%. For example, local assessors have attempted to place Farm Service Feed Mills in all of the following categories:

| | | |
|----|--|-----|
| 1) | Wholesale Merchant, Category (c) | 75% |
| 2) | Manufacturer, Category (e) | 60% |
| 3) | Retail Merchant, Category (i) 35%, 30% | 25% |
| 4) | Miscellaneous, Category (n) | 25% |
| 5) | Flour Miller, Category (j) | 35% |

However, the category of wholesale merchant does not fit well because:

- a) The business of a wholesale merchant entails the taking in of goods and their subsequent sale in exactly the same condition as the goods were in upon receipt. The Farm Service Feed Mill either cleans, grades or otherwise processes the goods taken in before the subsequent disposal.
- b) The wholesale merchant tends to have a rapid turn-over - he will move his stock from six to a dozen times in the course of a year's operations. The Farm Service Feed Mill provides a long term storage service as a part of its operation, supplying warehouse facilities sufficient to store seed grain taken in in the fall until the sowing season the following year.

It follows that the wholesale merchant requires much more limited accommodation than does the Farm Service Mill in order to turn over the same volume of business.

The first of these is the question of the
 nature of the evidence which is to be
 presented in the trial. It is not
 sufficient to say that the evidence is
 "relevant" or "material". It must be
 shown that the evidence is "probative" of
 the facts in issue.

THE EVIDENCE

The second question is the question of the
 weight to be attached to the evidence.

The third question is the question of the
 standard of proof.

The fourth question is the question of the
 burden of proof.

The fifth question is the question of the
 admissibility of the evidence.

The sixth question is the question of the
 relevance of the evidence.

The seventh question is the question of the
 materiality of the evidence.

The eighth question is the question of the
 probative value of the evidence.

The ninth question is the question of the
 weight to be attached to the evidence.

The tenth question is the question of the
 standard of proof.

The eleventh question is the question of the
 burden of proof.

The twelfth question is the question of the
 admissibility of the evidence.

The thirteenth question is the question of the
 relevance of the evidence.

The fourteenth question is the question of the
 materiality of the evidence.

The fifteenth question is the question of the
 probative value of the evidence.

The sixteenth question is the question of the
 weight to be attached to the evidence.

The seventeenth question is the question of the
 standard of proof.

The eighteenth question is the question of the
 burden of proof.

The nineteenth question is the question of the
 admissibility of the evidence.

The twentieth question is the question of the
 relevance of the evidence.

The twenty-first question is the question of the
 materiality of the evidence.

The twenty-second question is the question of the
 probative value of the evidence.

The twenty-third question is the question of the
 weight to be attached to the evidence.

The twenty-fourth question is the question of the
 standard of proof.

The twenty-fifth question is the question of the
 burden of proof.

- c) Within the grain trade there is a definite distinction between a Farm Service Feed Mill and a wholesale grain merchant and their operations are markedly dissimilar. The wholesale grain merchant would fall under Sec. (9(1) c; - the Farm Service Feed Mill would not.
- d) The category of wholesaler is expressly excluded under Sec. 9(1)e in the case of manufacturers who sell by wholesale the goods of their own manufacture. It is submitted that the reasoning in the Sec. 9(1)e must be extended to other processors who are not manufacturers. That is to say, a Farm Service Feed Mill should not be liable to business assessment as a wholesale merchant by reason of its carrying on the business of selling by wholesale the goods processed in the mill.
- e) Probably a tax payer could not hope to have his rate reduced to that of a wholesaler if the rate applied to wholesalers was less than the rate applied to the taxpayers' main business. This situation would arise if the taxpayers' main business was that of a distiller - and the case of Hiram Walker & Sons vs Town of Walkerville, 1917 O.L.R. 154 establishes that the courts will not accede to such an argument. By the same token it is submitted that the taxpayer whose business assessment rate is below that of wholesaler should not have his rate increased to the wholesalers rate merely because he sells his product wholesale.

The category of manufacturer does not properly include a Farm Service Feed Mill either because:

- a) The operations carried on in the average Farm Service Feed Mill do not fall within the description manufacturing. The term manufacturing has been defined in many cases -

"The operation of making goods or wares, or cloth, utensils, paper, books and whatever is used by man; the operation of reducing raw materials of any kind into a form suitable for use by the hands or by machinery." *Delhi vs Imperial Leaf Tobacco Co.* 1949 O.R. 636."

"To manufacture is to fabricate; it is the act or process of making articles for use, it is the operation of making goods or wares of any kind; it is the production of articles for use from raw or prepared material by giving to this material new forms, qualities, properties or combinations whether by hand or machinery." *Re H. Robinson Corporation Limited* 1938 O.W.N. 243. and shall be different thing from that out of which it is made." *McNichol et al vs Pinch*, 1906 Z.K.B. 352 (referred to in *Delhi case supra*)

The only operation carried on in a Farm Service Feed Mill which could possibly be classified as manufacturing according to these definitions is the actual grinding and mixing of feed. Inasfar as this operation is concerned, see item (b) *infra*. Inasfar as all other operations of a Farm Service Feed Mill are concerned, it is submitted that the category of manufacturing cannot apply in any event.

b) It should also be noted that Sec. 9(1)(j) provides an exception to the category of manufacturing and establishes a rate of 35% for flour mills producing on an average less than 50 barrels a day. It is submitted that the small miller who formerly fell within the ambit of Sec. 9(1)(j) has had to change his operations to conform with the development in our agricultural economy,

The first of these is the fact that the
 system is not a simple one, but a complex one.
 It is a system of many parts, each of which
 has its own function, and which must work
 together in order to perform the overall
 function of the system. This is why it is
 so difficult to understand the system as a
 whole, and why it is so easy to get lost in
 the details of the individual parts. The
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 and so challenging to study. It is a system
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 it is so easy to get lost in the details of
 the individual parts. The system is a complex
 one, and it is this complexity which makes
 it so interesting and so challenging to study.

until the 50 barrel capacity mill of yesterday has become the Farm Service Feed Mill of today. Hence it is submitted that the category formerly provided for the small miller should now include the Farm Service Feed Mill.

As a rule the Farm Service Feed Mill does ~~not~~ have a large percentage volume of retail sales, and the volume **might** be sufficient to warrant their classification as retail merchants. However, the rate set for a retail merchant is very close to the rate set for small flour mills under section 9(1)(j) and it is submitted that a new category similar to sec. 9(1)(j) is more appropriate for the business of a Farm Service Feed Mill.

The miscellaneous category of Sec. 9(1)(n) includes all those businesses which do not fall into any of the specific categories set out in the Act. It would appear that logically this is the only category into which a Farm Service Feed Mill could be placed but the Ontario Municipal Board and the Courts have on occasion disagreed.

Very few Farm Service Feed Mills are assessed under category (j) as small flour mills. However, the small miller that fell within the ambit of this category 30 and 50 years ago has had to change his operations to provide the services now required by our more scientific and efficient farmers, until the 50 barrels per day flour mill of yesterday has become the Farm Service Feed Mill (as previously defined) of today.

We all know that these problems of classification are not restricted to Farm Service Feed Mills. It seems to us that the only way to avoid these problems of classification with any degree of finality is to eliminate all attempts at classification.

CONCLUSION

IMMEDIATE AND SUPERFICIAL

As an immediate solution to this problem currently being experienced by Farm Service Feed Mills, we recommend that the following category be added to sec. 9 (1) of The Assessment Act:

"Every person carrying on the business of a Farm Service Feed Mill in a mill with a rated maximum milling and blending production capacity not exceeding 5 tons of ground grain per hour and retailing at least 75% of its total output from milling and blending, for a sum equal to 25% of the assessed value."

You might see fit to set the business assessment rate at 30% or 35% instead of 25% by analogy with the present categories of retail merchant and small flour miller. The essential thing is that Farm Service Feed Mills are defined and a definite rate be set for them so long as the present form of Assessment Act is in force. It is intolerable that different municipalities should tax the same type of business at anywhere from 25% to 60%.

LONG TERM AND FUNDAMENTAL

Then we submit that a more permanent solution necessitates a complete revision of the Assessment Act.

Many economists and experts in your government have studied this problem and we make the following submissions with the greatest humility.

First we submit that it should be mandatory for all municipalities to make their assessments on the same basis. For example, all municipalities might be required to use the provincial manual.

Then we submit that there should be no attempt in the provincial legislation to define different categories of business.

If considered desirable, allow municipalities to pass by-laws in which different categories of business are defined and to which different rates

the first of the great principles of the American Revolution

was the right of the people to alter or to abolish their

government, and to institute a new one, whensoever they

shall judge it necessary for their safety and happiness

to do so. This principle was the foundation of the

Declaration of Independence, and it was the basis of

the whole system of American government.

It was the principle which gave birth to the

Constitution, and it was the principle which

gave birth to the Bill of Rights, and it was the

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of business tax can be applied. We feel this method of taxing business will inevitably lead to inequities between different types of business and different communities but if this course is followed, we strongly recommend that a maximum rate of business tax of say 30% or 35% should be specified in the provincial legislation because otherwise weak municipal councils might take the most immediately expedient course no matter how inequitable it was or how damaging it might be over a longer term.

However, you are probably all familiar with the report on The Municipal Business Tax in Canada prepared by Dr. Robert M. Clark of the University of British Columbia, and published by the Canadian Tax Foundation as Canadian Tax Papers No. 5 and dated February 29, 1952. We are inclined to agree with Dr. Clark's opinion that a flat rate for all companies and persons engaged in business with possibly a moderate business tax exemption would be preferable to the present classification basis.

Submitted on behalf of the Ontario Retail
Feed Dealers Association by its Solicitors,
Messrs. McKeown, Yoerger, Chown and
Hudson, Suite 202, 121 Richmond Street
West, Toronto, Ontario.



The Ontario Retail Lumber Dealers Association Inc.

410 OAKWOOD AVE.
TORONTO 10, ONTARIO
PHONE RUSSELL 1-4667



November 2, 1961.

Mr. Hollis E. Beckett, Q.C.,
372 Bay Street,
Toronto, Ontario.

Dear Mr. Beckett:

The lumber dealer's role in 1904 was one of purchasing large or rough lumber products from local supplies of timber; machining them into dressed lumber and mouldings; manufacturing dressed lumber into wood products, such as doors, windows and frames, and then selling them to the public from a premises having an industrial setting.

In 1961 he purchases dressed lumber, finished lumber products and other building supplies and sells them from a premises having a commercial setting.

Legislation governing the business assessment of lumber dealers has remained unchanged since 1904 up to the present time, and it is our submission that an examination of the conditions under which the lumber dealer now operates should be made to assess the equitability of this legislation as practiced throughout the province.

To this end we submit the attached brief.

Yours very truly,

David S. Prowse
per A.G.

David S. Prowse,
Secretary-Manager

DSP/AC.
Enclosure

Members of Committee:

Mr. Donald Morrow
Mr. Rheal Belisle
Mr. Arthur Evans
Mr. Ronald McNeil
Mr. Alfred Cowling
Mr. Thos. Thomas
Mr. George Gordon
Mr. Vernon Singer

From: Ontario Retail Lumber Dealers Association Inc.,
410 Oakwood Avenue,
Toronto 10, Ontario.

The 1904 Lumber Dealer operated close to a source of a supply of raw materials and power. Buildings housed machinery, where he stored perishable materials and an Administrative Office. Storage facilities were limited because raw materials needed to be exposed for drying, and thus could best be stored outside.

The Administrative Office doubled as a Sales Room. Sales were made on a custom order basis. These orders were shipped to the consumer as soon as they were manufactured.

As sources of supply receded and freight rates increased, the dealer was forced, in light of economic necessity, to purchase dressed lumber. He was then forced to curtail the planing portion of his business and erect suitable storage sheds for this additional perishable merchandise.

Then as materials other than lumber, but used as a substitute for lumber, appeared on the market, their high degree of finish and color required more and more visual selection by the consumer, who by this time included an increasing number of women. This required new degrees of facilities.

Shortly after World War II production line manufacture was developed by a few sash and door manufacturers, which required the lumber dealer to curtail his own local activities, purchasing his millwork for resale rather than manufacturing it. This eliminated his shop facilities, but increased the storage required.

With the advent of the project builder, and his heavy buying power, who purchased his volume items direct from the manufacturer or wholesaler, the lumber dealer was required to accentuate the retail aspects of his business to an even greater degree.

This had the effect of moving the dealer out of a low grade industrial location, where he had large yard space and minimal type sheds to a high grade commercial location with maximum variations and store buildings.

WE, THEREFORE, SUBMIT THAT the Act does not recognize that the nature of lumber dealers' business has changed from that of manufacturer and bulk storage depot in 1904, to that of retail merchant in 1961, and, in its present form is placing an undue burden of a discriminatory nature on a struggling industry.

WE, THEREFORE, REQUEST that the Committee recommend that the Government of this Province amend the statutes of Ontario to exclude the business of lumber dealer from business assessment of 50%, and that lumber dealers be categorized with other retail merchants in the interests of an equitable distribution of the tax burden which we all share. (See appendage #1)

FURTHER EVIDENCE that this section of the act stands in need of revision lies in the sum of \$20,000.00 set up to define a Department Store, when in today's assessed values this amount could hardly be expected to cover the assessed value of the land required for a retail store, together with modest parking facilities. It is our suggestion that \$60,000.00 would be a more realistic sum. (See appendage #2)

#1 TAKEN IN CONTEXT FROM THE STATUTES OF ONTARIO, 1960

"THE ASSESSMENT ACT"

Section 9 (one) (F)

"Every person carrying on the business of what is known as a departmental store or of a retail merchant dealing in more than five branches of retail trade or business in the same premises or in separate departments of premises under one roof, or in connected premises, where the assessed value of the premises exceeds \$20,000, or of a retail coal or fuel oil or wood or lumber dealer, lithographer, printer or publisher, except the publisher of a newspaper, for a sum equal to 50 per cent of the assessed value; but in cities having a population of not less than 100,000, retail coal or fuel oil dealers shall be assessed for a sum equal to 30 per cent of the assessed value. R.S.O. 1950, c.24, s.6 (1), cl. (f); 1953, c.6, s.3 (1)"

"THE ASSESSMENT ACT"

Section 10 (one) (E)

"Every person carrying on the business of what is known as a Department Store or a retail merchant dealing in more than five branches of retail trade, or business in the same premises; or in separate departments of premises under one roof, or in connected premises, where the assessed value of the premises exceeds \$20,000. or of a coal or wood or lumber dealer, lithographer, printer or publisher, or of a club, in which meals or spiritous or fermented liquers are sold or furnished or the business of selling, bartering or trafficking in fermented, spiritous or other liquers in any premises in respect of which a shop license has been granted, for a sum equal to 50 per cent of the said assessed value; but in cities having over 100,000 population, coal dealers shall be assessed a sum equal to 30 percent of the said assessed value."

Box 28
Corunna, Ontario

September 23, 1961.

Chairman
Select Committee of the Legislature
on Municipal Legislation
Parliament Buildings
Toronto, Ontario.

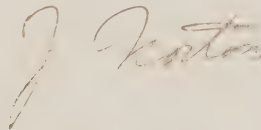
Dear Sir:

Enclosed is a copy of letter to the Ontario Telephone Service Commission of which only the second to last paragraph is of primary importance to your committee.

The following points are presented to your committee for consideration:

- (1) Would it be possible to give the various government commissions more initiative so that they could correct various deviations from the Legislative Acts they administer and not having to wait until a complaint is made before acting?
- (2) Would any advantage be gained by having the Ontario Telephone Service Commission under the control of the Department of Municipal Affairs rather than the Department of Agriculture? A great deal of the telephone legislation is closely allied to municipal legislation.

Yours very truly,



J. Norton.

Sept 26, 1961

Box 28

Oranma, Ontario

September 22, 1961.

Chairman
Ontario Telephone Service Commission
Ontario Department of Agriculture
7 Queen's Park Crescent
Toronto 5, Ontario.

Re: - The Moore Municipal
Telephone System.

Dear Sir:

During the past few months you no doubt have been informed by the Minister of Travel and Publicity, the Manager of the Moore Telephone System, the Municipal Board and others, of the outward position the system now finds itself.

It is also well known that your Commission is most anxious to correct any possible deviations from the Telephone Act. It is herewith respectfully suggested that the following might merit further study:

- (1) The legality of the proxies used at the telephone meetings.
- (2) The legality of one of the local commissioners to hold office when an apparent conflict may exist under Section 67 of the Telephone Act, 1960. Copies of the 1961 Moore Township tax notice and the annual report for the Telephone System are enclosed for your study.
- (3) The current balance of the various reserve funds.

As you are aware, the local commission and the Moore Township Council recently applied to the Municipal Board for permission to issue a debenture to cover the cost of buildings already constructed. I do not believe that this is possible under the existing laws of Ontario. Also entering into the picture was the location of the work center; be it in Oranma or Brigidon.

This expenditure must now be covered by a tax levy against all the ratepayers of Moore Township or by the introduction of a private bill in the legislature. Both methods are costly and no doubt will encounter considerable opposition.

* * *
In summary, you must admit that the local system consisting of over 2000 telephones and liabilities of over \$600,000.00 is becoming much too large and complex for three inexperienced local commissioners to control. The Telephone Act of 1960 (enforced by your Commission under the Department of Agriculture) is just not adequate for rapidly growing urban and sub-urban communities. It is my understanding that you suggested sometime ago that a limited liability company be formed. As far as I know no action has been taken on this or of selling out to the Bell.

Copies of this letter are being forwarded to interested persons for their information.

Yours very truly,
J. Arton



THE ONTARIO TRAFFIC CONFERENCE

1 9 6 1 B R I E F

to

Select Committee on the Municipal Acts
and Related Acts

THE ONTARIO TRAFFIC CONFERENCE

AN ASSOCIATION FOR THE IMPROVEMENT OF TRAFFIC CONDITIONS
AND TRAFFIC SAFETY IN THE MUNICIPALITIES OF ONTARIO



THE ONTARIO TRAFFIC CONFERENCE

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WINDSOR, ONTARIO.

SECRETARY-TREASURER,
R. J. DESJARDINS, P.ENG.,
56 FERNALROY BLVD.,
TORONTO 18, ONTARIO.

September 15, 1961.

Mr. Hollis E. Beckett, Q.C. M.P.P.
Chairman,
Select Committee on the Municipal Act
and Related Acts,
Room 377, Parliament Buildings,
Toronto 5, Ontario.

Dear Sir:

I have been instructed by the Board of Directors of the Ontario Traffic Conference to submit to you the following resolutions enclosed in this brief for your consideration.

1. Resolution on Control of Private Driveways.
2. Resolution on Emergency Traffic Regulations.
3. Traffic Control - Shopping Plazas.

The Board of Directors would be pleased to appear before the Select Committee at their convenience. Your kind attention will be appreciated.

Yours truly,

R. J. Desjardins, P. Eng.
Secretary-Treasurer.

RESOLUTION ON CONTROL OF PRIVATE DRIVEWAYS

Whereas private driveways are often located by abutting owners in such a position and of such a size that their use interferes seriously with vehicles and pedestrians using the public highways.

Therefore be it RESOLVED that the Select Committee studying revisions to the Municipal Act be requested to give favourable consideration to amending the Act to permit a municipality to regulate the size, number and location of private driveways entering a public street from any privately owned property.

RESOLUTION ON EMERGENCY TRAFFIC REGULATIONS

Whereas any municipal road work which results in the obstruction of traffic usually requires the enforcement of temporary traffic control devices such as detours, one way traffic, elimination of traffic signals, stop signs and the like and often cannot be predicted in advance, and may be required for various lengths of time varying from a few hours to several weeks.

And WHEREAS there is at present no provision for such emergency traffic measures.

And WHEREAS the need for such emergency measures results in traffic regulatory signs being erected without proper authority.

Then be it RESOLVED that the Select Committee studying revisions to the Municipal Act be requested to give favourable consideration to the introduction of an amendment to the Act permitting a municipal council to authorize a designated official to erect any necessary traffic control measures of the nature referred to herein and that such measures shall be lawful for a period of thirty days. And further, should it be necessary to extend the effective period of such regulations, that a municipal council may be authorized to extend such regulations for a further period of 60 days.

SECTION ON AGENCY TRAFFIC REPORT

1. General information regarding the traffic report, including the date and time of the report, the name of the reporting agency, and the name of the reporting officer.

2. A brief description of the traffic incident, including the location, the type of vehicle involved, and the nature of the incident.

3. A detailed description of the traffic incident, including the actions taken by the reporting officer, the names of the parties involved, and the results of the investigation.

4. A summary of the traffic incident, including the key findings and the recommendations made by the reporting officer.

5. A list of the agencies and individuals involved in the traffic incident, including the names and titles of the reporting officer, the investigating officer, and the parties involved.

6. A list of the agencies and individuals who have reviewed the traffic report, including the names and titles of the reviewing officers and the date of the review.

7. A list of the agencies and individuals who have approved the traffic report, including the names and titles of the approving officers and the date of the approval.

8. A list of the agencies and individuals who have been notified of the traffic incident, including the names and titles of the notifying officers and the date of the notification.

9. A list of the agencies and individuals who have been provided with a copy of the traffic report, including the names and titles of the distributing officers and the date of the distribution.

10. A list of the agencies and individuals who have been provided with a copy of the traffic report, including the names and titles of the distributing officers and the date of the distribution.

11. A list of the agencies and individuals who have been provided with a copy of the traffic report, including the names and titles of the distributing officers and the date of the distribution.

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16. A list of the agencies and individuals who have been provided with a copy of the traffic report, including the names and titles of the distributing officers and the date of the distribution.

TRAFFIC CONTROL - SHOPPING PLAZAS

Whereas shopping plazas and parking areas are private property but used by the general public, the problem of traffic control and accident investigation cannot at present be effectively handled by the police.

Be it resolved that consideration be given to legislation to enable the police to legally enter parking plazas for traffic control purposes.

C. W. Yates, Q.C.

Mrs. H. G. Rowan

May 23, 1961.

Re: Select Committee

Re: Brief of the Joint Board of Ontario Travel Associations

Attached hereto is correspondence including the brief submitted by the Joint Board of Ontario Travel Associations. You will note in the reply of the Minister dated May 11, 1961, that this brief is to be referred to the Select Committee for the review of municipal statutes. There are two matters in the brief which concern this Department, namely: on page 3, the proposal for the repeal of Section 401, paragraph 15, of The Municipal Act, formerly section 213, paragraph 12, and secondly, the question of business tax to be found on page 9 of the brief. This follows the conversation this morning on the telephone in which you indicated that you would obtain the necessary copies of the brief for presentation to the Select Committee.

CWY/st.
Encl.

C. W. Yates
C. W. Yates.

Submission of
The Joint Board of Ontario Travel Associations
Regarding the Ontario Tourist Industry
To the
Legislative Committee on Travel and Publicity

March 16th, 1961.

Mr. Chairman and Honourable Members of the Legislative Committee on Tourism:

The Joint Board of Ontario Travel Associations is a united representation of the Association of Tourist Resorts of Ontario; the Northern Ontario Tourist Outfitters Association and the Ontario Tourist Courts Association all of which are dedicated to the further development and promotion of the Ontario Tourist Industry.

Our presentation to-day is similar in nature to the Briefs which we have presented to this Committee for a number of years, for try as we have to bring home the facts of the problems confronting the tourist industry they are still with us to-day. These problems cannot be overcome by the tourist industry alone but can only be accomplished through government assistance to the Industry.

We have pointed out the significance of the tourist industry to the Ontario economy so often that we hesitate to even mention it here again. At the same time we continue to lose in the bid for the world's biggest travel market, mainly because our facilities are inadequate to meet the demand of the modern travelling public. Other provinces which have been faced with similar problems, have done something about them, but Ontario has still to see the light.

The Members of the Joint Board of Travel Associations wish at this time to compliment the Minister of the Department of Travel and Publicity, the Deputy Minister and all the staff on the excellent job they are doing on behalf of the Tourist Industry of Ontario and on their co-operation with our Board of Directors.

We are at times amazed at what they do in publicizing and encouraging one of the largest industries in Ontario, considering the limited funds at their disposal. They are really endeavouring to do a real big job with a very limited Budget.

We in BOTA also want to congratulate the Minister of the Department of Highways and his staff on the advancement they have made in regard to highway directional signs. In our opinion, we have not as yet reached the stage we had hoped, but progress is being made. The relationship is very cordial, meetings friendly and we earnestly look forward to a more realistic approach as to what is needed by the travelling public.

Further, you gentlemen may notice - and rightly so, that a number of the points we will bring out this morning are not directly under the control of the Department of Travel and Publicity. However, that is the department that is directly concerned with tourism. Therefore, we look to the Department of Travel and Publicity to give us leadership and guidance in having these problems rectified.

TOURIST ESTABLISHMENT LICENCES

Tourist operators, and more particularly, the urban and semi-urban establishments, are still subject to an antiquated regulation whereby the municipality or township can, by a by-law, re-licence these establishments. The Act also gives the local Councils power to govern and regulate the operation of motels and tourist establishments.

Although the initial reason for granting these powers to the municipalities and townships is not disputed, we feel that the cause has long been removed. Some local government bodies are now merely using these powers to add to their overall revenue.

We feel that the tourist industry fully pays its municipal obligations by municipal and business tax levy, which in itself is not equitable when compared with other business enterprises requiring less taxable assessment, but with equal or greater net income.

Furthermore, we feel that this dual licensing feature is not consistent, when one considers that licensed hotels, which are in effect somewhat similar operations, are not subject to these local by-laws, but are provincially regulated.

THEREFORE we wish to present to following resolution:

WHEREAS, under the Tourist Establishments Act all Ontario Tourist establishments, except those licensed under the Liquor Licence Act, must be licensed and regulated by the Department of Travel and Publicity,

and

WHEREAS, under The Municipal Act, Section 413-12, Municipalities may also license and regulate tourist camps within their jurisdiction,

and

WHEREAS, tourist camps as defined under The Municipal Act are subject to all taxes and other charges as imposed by any Municipality. Therefore, there is no valid reason for this unequalized system of double licensing which is causing great hardship to Tourist establishments in many Municipalities.

Therefore, be it resolved, that the Department of Municipal Affairs be requested to repeal Section 413 of the Municipal Act, wherein it applies to the licensing of Tourist establishments.

WORKMEN'S COMPENSATION

It is the opinion of the Joint Board of Ontario Tourist Associations that the Workmen's Compensation Board up to this time have not established a rating for motels, resorts and other tourist establishments, but are charging rates applicable to the Hotel Industry.

We therefore request this Committee to recommend to the Workmen's Compensation Board that they set up a separate category for these establishments in accordance with the risks involved.



LIQUOR LAWS

Although it is readily agreed that many minor improvements have been made to the liquor license act, there are still many changes to be considered in order to satisfy the requirements of our Tourist visitors and to alleviate the problems of our tourist operators.

In licensed establishments our visitors cannot understand why they are not permitted to have a bottle of beer served in their room, before retiring in the privacy and comfort of their "Home away from Home". We suggest that this committee recommend to the Government that room service be reinstated, to permit the sale of beverages in guest rooms.

Other provinces are in the process of revising their liquor laws and adapting them to present day conditions. Canada's leading province may well follow their example.

Inequitable provisions of the Act which discriminate against unorganized districts should be revised. Present legislation provides only for a "local option" vote in municipalities - unorganized districts have no recourse-machinery should be set up to permit residents in these areas to express their will.

Why should these people be forever denied the democratic expression enjoyed by their town and city cousins.

Changing methods of transportation, first by auto and the by plane have revolutionized travel, and thus the comparison of services and facilities are to the disadvantage of many of our Ontario Resorts. Whether it be a couple on a honeymoon or a convention of 200 - such glaring gaps in our facilities are a serious competitive handicap to tourist operators particularly in unorganized districts.

A further suggestion that the government of the Province of Ontario now requires a 60% vote in order to amend or change the Liquor Control Act on a local level, it is the feeling of the Joint Board of Ontario that a clear majority vote only should be required in line with democratic principles.

HIGHWAY SIGNS

While the Department of Highways has eliminated large numbers of unsightly signs from our highways, we feel that this policy is being carried to unnecessary extremes in some instances.

As an example, this is particularly true in the case of Highway No. 69, which has been classified as a controlled access highway. This requires that all field advertising signs must be removed. This highway is not a controlled access highway in practise and to remove all field advertising signs from along this highway, which serves a major tourist area is absolutely absurd. We also feel that more consideration must be given to providing tourist information to the travelling public along Highway No. 401 which services many tourist areas.

LICENCE PLATES

As we are striving to attract more tourists to this Province from the world beyond it's borders, and as Ontarians themselves are energetic travellers, automobile licence plates would appear to be an advertising medium of great potential.

Without extra cost Ontario's name could be made more meaningful wherever Ontarians drive by incorporating a short but pithy descriptive phrase into the design of each plate.

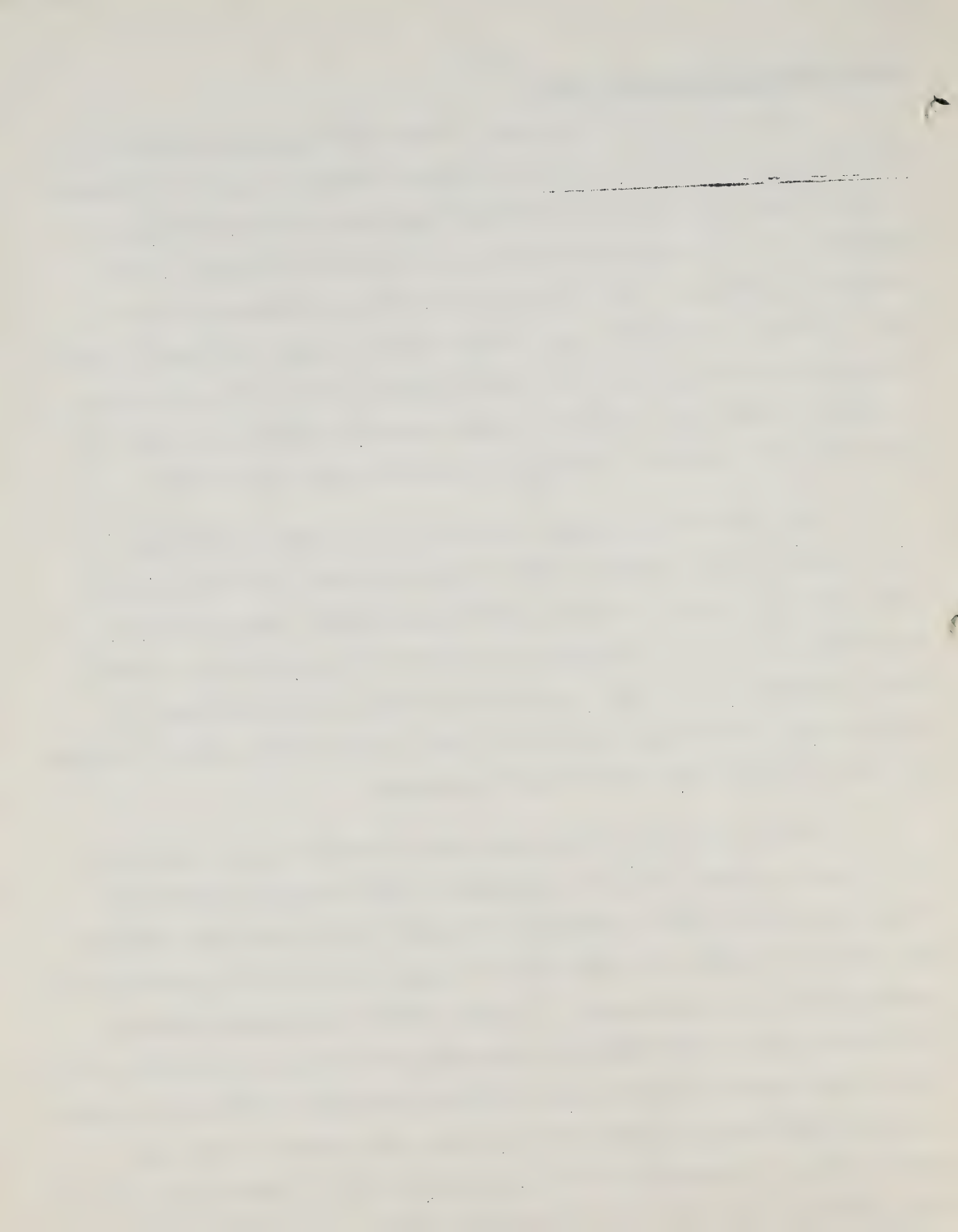
This Board feels the above suggestion worthy of consideration and action in the near future.

PLANNED DEVELOPMENT OF TOURIST AREAS

For some 14 years the Department of Lands and Forests have carried on a Recreational Land Use Planning program in Northern Ontario by a system of zoning on a township basis, with special consideration being given to the conservation and management of our fish and game resources which are of vital importance to the residents of Ontario, and which are the main attractions for bringing tourists - both resident and non-resident - into Northern Ontario. While this system of zoning restricts further development of the tourist outfitting business in certain areas, we strongly support such a program and highly commend the Department of Lands and Forests for it's foresight in setting up and continuing such a wise program.

While this planning program has set up areas in which no development - either commercial camp or private cottage - may be undertaken, and areas in which commercial camps only are controlled, present regulations are only applicable to crown lands, and there is no legislation in effect at the present time to control deeded or patented lands. This is causing grave concern to commercial camp and private summer cottage owners in many areas which are fast becoming greatly overcrowded and being transformed into a "Coney Island" atmosphere.

Therefore, the peace and quiet and relaxation desire by both tourist and private summer cottagers alike, is in many areas no longer available and this is having a very adverse effect on the tourist industry. Also in these areas which are fast becoming overcrowded, the introduction of bigger and faster boats and motors are creating a hazard to personal safety. A recent survey by the Canadian Government Travel Bureau indicated that 30% of the non-resident tourists now use a boat for all or part of their vacation in Canada, and it is safe to assume that an even greater number of residents also use boats during their vacation. While Ontario has more than enough waterways to accommodate this fast growing multitude of pleasure boats, they are being crowded into the more popular areas of the province, hence the urgent need for tourist population control in these areas.



With the building of bigger and better main highways into Northern Ontario, plus the increase in non-resident tourist traffic, and the vast increase in the population of Ontario, there is a tendency towards greatly overcrowding presently established tourist and private cottage areas. Not only is this condition depriving these people of the peace and quiet of a restful vacation, it is also creating a greater pressure on our fish and wildlife resources than they can stand, therefore, the future of the tourist industry in such areas is being greatly jeopardized.

The Northern Ontario tourist industry does not fear fair competition, and it does not wish or intend to impede progress, but it is vitally concerned with the future progress of the tourist industry. With the vast unlimited expanse of Northern Ontario still available for tourist and private summer cottage development, we would strongly recommend that more areas of Northern Ontario should be opened up for this purpose, such as is being done for mining, lumber and other developments. This would have the effect of spreading out the tourist industry and improving the economy of Northern Ontario in areas which are now almost dormant, for everybody benefits from the tourist industry.

We respectfully request that the following recommendations be given serious consideration by the Ontario Government:

(1) That the establishment of new commercial tourist camps continue to be controlled in certain areas in accordance with the recreational zoning program already in operation under the Department of Lands and Forests.

(2) That the Department of Travel and Publicity enforce Section 2 - (1) - (j) of the Tourist Establishments Act.

(3) And further to the above we would recommend that Section 2 of the Tourist Establishments Act be amended by striking out "Lieutenant Governor in Council" in the first line and inserting in lieu thereof "Minister" so that the section shall read as follows; The Minister may make regulations.

(4) That more areas of Northern Ontario should be opened up for the further development of commercial and private summer camps, and that the public be encouraged to establish therein.

SURVEY OF THE MID-SOUTHERN STATES RE EARLY SUMMER BUSINESS FOR ONTARIO.

In our brief submitted March 17th, 1960, it was pointed out that due to the fact that the schools in the Mid-Southern States close between June 1st and 10th, and do not re-open until late August or September that we could encourage the people in these areas to visit Ontario during the last two weeks of June and the first two weeks of July. That is the time of year in which our tourist operators are operating at 40% - 60% capacity.

We are very pleased to inform you that this winter the Department of Travel and Publicity, together with the Joint Board of Ontario Travel Associations financed a twenty-two day "pilot" survey of:

Virginia, North Carolina, South Carolina, Georgia and Tennessee.

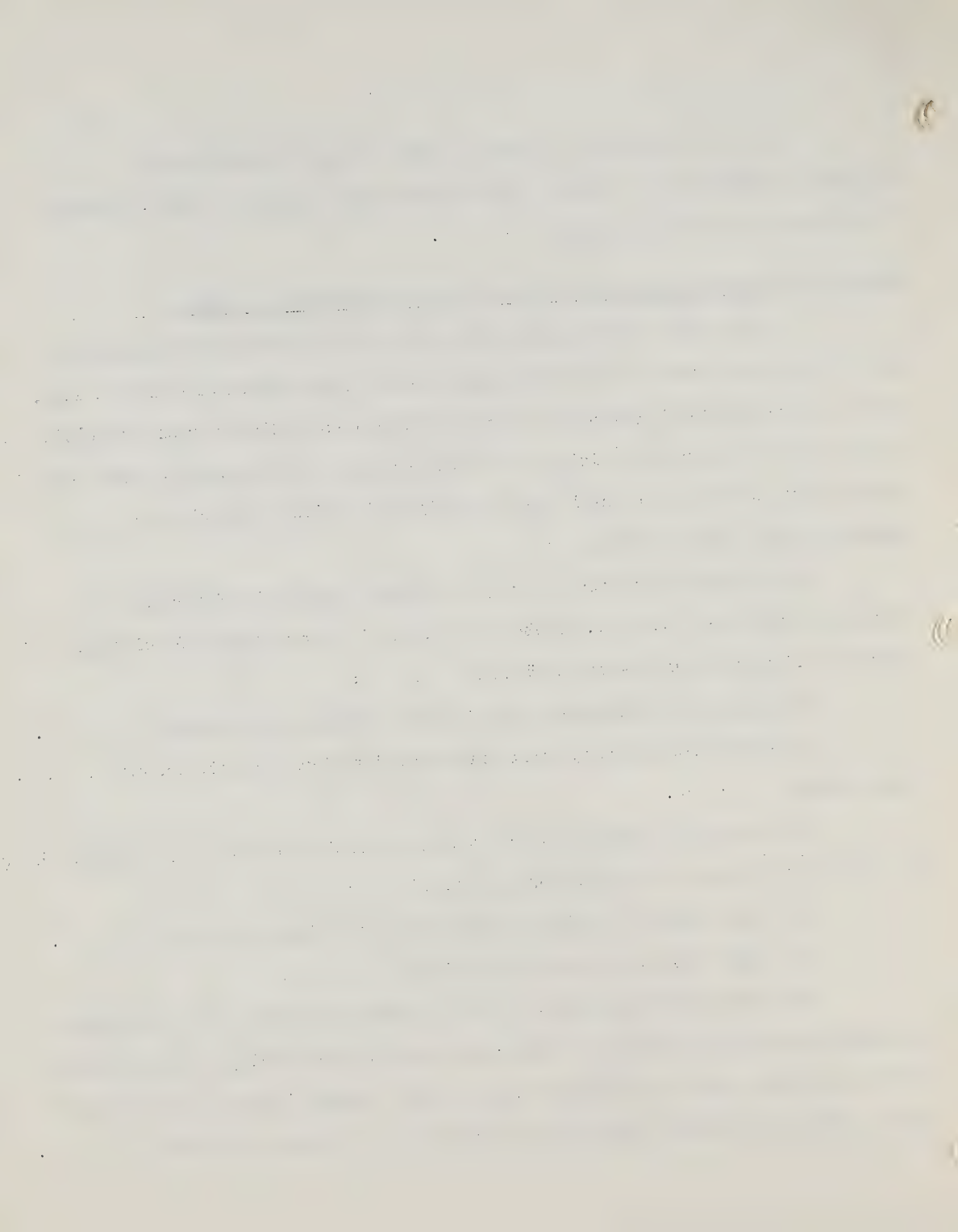
This survey was made by the Joint Boards Managing Director, Dr. J. Lawson Mackle.

For the sake of brevity, we will not at this time go into all the details but suffice it to point out the following facts:

(1) These areas are being industrialized at a very rapid rate.

(2) Wage rates are continually climbing.

(3) Northern United States as well as foreign industries are establishing branches and distribution centres all over this area and are sending in Key personnel which is helping to give the South "as they call it" a better opinion of the Northern Yankee; while the non-white population is moving west to Alabama, Texas etc.



(4) The tunnels they are building in Virginia will cut down the tourist travel time to the New England States and Eastern Canada. While the limited access State Highways, which will be completed in about two years will cut $8\frac{1}{2}$ hours off the driving time from Georgia to Buffalo, also the same applies in the states to the west such as Texas, Tennessee, Kentucky to Detroit. In a few years these people will be right at our back door in so far as travel is concerned.

(5) Many of the employees who have gone from the North to work in the South cannot stand the extreme heat like the born Southerner can, particularly when it goes to 100° - 102° for days on end and has about 90% humidity.

Your Minister of Travel and Publicity has a separate report on each of the five states.

This appears to be an area that should be earnestly cultivated for future business and we wish to thank the Department of Travel and Publicity for making it possible for us to make this "pilot" survey.

BUSINESS TAX ON SEASONABLE BUSINESS

The present day method of Business Tax Assessment is very detrimental to the Tourist Industry.

Our Business Tax Assessment as it now reads is 25% of our real estate assessment. A Tourist Operator must have a fairly large acreage in order to entice business, as you are all very well aware and furthermore you must realize that our season is very short - ten to twenty weeks per year.

This short season is caused by climatic conditions, over which we have no control.

Therefore, we feel that our Business Tax should revert to what it was previous to 1956. By that we mean, we paid 1/12th of our Business Tax for each month we operated, or the Act could be amended to reduce our Business Tax assessment percentage from 25% to 5% of our total real estate assessment. This would accomplish the same purpose.

We feel that the Business Tax is not by any means equalized in proportion to the gross business done by the taxpayer.

Some examples - a Doctor, Dentist, Lawyer, Engineer, Optomatrist etc., can carry a much more profitable business on in a space of about 960 square feet, and his business tax is based only on the number of square feet he occupies in that building in proportion to the over-all assessment of the building. Admittedly his Business Tax percentage is higher but he still only pays a few dollars whereas some resorts with a gross yearly take of less than \$ 20,000.00 pay \$ 450.00 per year Business Tax for a ten week operation. Or in simple language they pay \$ 45.00 per week Business Tax for each week they operate in order to take in \$ 20,000.00 per year gross.

Some of the other inequalities are as follows:

- (1) They pay business tax on land in many cases that is not even farm land.
- (2) We pay Business Tax on the rooms the proprietor occupies in his own resort.

If a retail shoe dealer has an apartment over his store they do not charge him Business Tax on his apartment.

(3) We are charged business tax on the rooms our staff occupy, about 25% of the sleeping accommodation. It is a non-revenue producer.

If a merchant or contractor houses his employee, he does not pay Business Tax on that accommodation.

The Department of Travel and Publocity and all you gentlemen want the Tourist operators to improve and expand our resorts. And so do we, but remeber the tourist operator gets only .17¢ of each tourist dollar and the merchant gets .47¢. So we go ahead an improve our facilities and the end result is that we pay more real estate taxes and more business tax.



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Let us quote just one example:

Each resort must have a recreation hall of some sort so that his guests can congregate there in bad weather, or play cards, ping pong etc. This is virtually a non-revenue producer, except it may encourage more people to come to your resort.

But look at the expense:

One of our operators wanted to build a recreation hall and he contacted the local assessment officer and this is the answer:

Building was to cost \$ 10,000.00. The Assessor said it would be assessed for \$ 3,600.00 plus 25% Business Assessment. Total Assessment \$ 4,500.00.

At the present mill rate in that municipality, that one building would increase his taxes \$ 475.00 per year.

The building would be in use approximately ten weeks per year, therefore, the taxes on said building would be \$ 47.50 per week for each week of use.

How many of your merchants and industry could survive a tax like that.

In view of the above, we suggest that the Department of Travel & Publicity take this matter up with the proper authorities in order to get some relief from for our operators.

If there is any further evidence needed, we can furnish it.

In closing, we wish to express our sincere thanks to the Honourable Minister, the Chairman and all the Members of this Committee for the privilege of presenting this Brief to-day.

We do hope that you will furnish us with a report of your decisions regarding this Brief as soon as possible.

Respectfully submitted by,

The Joint Board of Ontario Travel
Associations.

R. A. Giles, Chairman of the Board.

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* BRIEF

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to

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* SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS

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by

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* PERIODICAL PRESS ASSOCIATION

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* O C T O B E R 1 9 6 2

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The following table shows the results of the experiments conducted on the 10th of May 1900. The experiments were conducted on the 10th of May 1900. The results of the experiments are as follows:

| Experiment | Result |
|------------|--------|
| 1 | 1.0 |
| 2 | 1.0 |
| 3 | 1.0 |
| 4 | 1.0 |
| 5 | 1.0 |
| 6 | 1.0 |
| 7 | 1.0 |
| 8 | 1.0 |
| 9 | 1.0 |
| 10 | 1.0 |

The results of the experiments are as follows:

1000 - 1000



SUBMISSION

to the

SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS

by

PERIODICAL PRESS ASSOCIATION

PART I

THE IMPORTANCE OF CANADIAN PERIODICALS IN THE LIFE OF CANADA

1. Periodical Press Association is comprised of 147 English and French-language Canadian business publications, farm publications and general (consumer) magazines. Ninetythree of these are published in the Province of Ontario.
2. They are recognized as periodicals having high editorial standards and are governed by a code of ethics requiring adherence to these standards.
3. THE MAGAZINE GROUP consists of the consumer magazines which supply information to the public on questions of national interest, Canadian accomplishments in all fields and special services to women on housekeeping, home planning, child training, etc. These publications as a whole have done much to raise our standard of living in Canada and have had a vital part in our national development.
4. THE FARM PUBLICATIONS are read by all progressive farmers and are recognized as an important factor in supplying information on

REPORT

THE CANADIAN ASSOCIATION OF
STATISTICAL AGENCIES

REPORT OF THE
COMMISSIONER

REPORT OF THE CANADIAN ASSOCIATION OF STATISTICAL AGENCIES IN THE YEAR 1920

The Canadian Association of Statistical Agencies is composed of 147 members and is the largest and most influential statistical organization in the world. It is a non-profit organization and its purpose is to promote the development of statistics in Canada and to co-operate with other statistical organizations in the world. The Association is organized into four main branches: (1) the Canadian Statistical Association, (2) the Canadian Statistical Association, (3) the Canadian Statistical Association, and (4) the Canadian Statistical Association. The Association is also organized into four main branches: (1) the Canadian Statistical Association, (2) the Canadian Statistical Association, (3) the Canadian Statistical Association, and (4) the Canadian Statistical Association.

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modern farm methods and markets. One cannot imagine our farming community without its agricultural press.

5. THE BUSINESS PUBLICATIONS group contain general business publications, such as THE FINANCIAL POST, CANADIAN BUSINESS, INDUSTRIAL CANADA; retail merchandising papers which deal with markets and merchandising information, etc.; and industrial publications which supply technical information to industry.
6. The place of the periodical press in the Canadian economy is recognized and praised by leaders in government, finance, commerce, industry and education. Its contribution to the development of a national consciousness was stressed in the report of the Royal Commission on National Development in the Arts, Letters and Sciences, usually referred to as the Massey Commission.
7. It is a fact that the Canadian periodical press operates under intense competition from the wealthiest magazines in the world which enter Canada from across the border without restriction. We do, however, in the face of this extreme competition for circulation, readers' time and dollars, have a national press with considerable tradition which insists on remaining resolutely Canadian.

8. Canadian governments have recognized the importance of the periodical press in Canada and have taken or announced appropriate action to alleviate in some measure its extreme competitive situation. The recent Royal Commission on Publications, which heard evidence from all points of view and from coast to coast, was charged "to make recommendations to the government as to possible measures which, while consistent with the maintenance of the freedom of the press, would contribute to the further development of the Canadian identity through a genuinely Canadian periodical press".

9. The recommendations of the Royal Commission are now a matter of record and have received wide distribution and discussion. The Prime Minister in the House of Commons on January 22nd of this year said, in part, as follows:

"On June 15th last year, I tabled in the House of Commons the Report of the Royal Commission on Publications. Since then there has been time for a mature and searching appraisal by the Government, and by the public, of the conclusions and recommendations of the Commission and the information and argument on which they are based.

"The Commission in vigorous and persuasive language calls our attention to the unique role that Canadian magazines play, or ought to play, in our national life."

10. The Prime Minister went on to quote from the Commission's findings and stated that the recommendations of the Commission, with some modifications, would be implemented by the Government.

1. Canadian Governments have recognized the importance of the...
and Press in Canada and have as an announced objective...
to introduce in some measure the extreme commercial situation.

2. The...
from all points of view and from coast to coast, was...
make arrangements for the Government as to providing...
which will be in accordance with the maintenance of the...
the... would contribute to the further development of the...

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4. The... went on to quote from the Commission's...
and stated that the... of the Commission, with...
... by the Government.

11. Dissolution of the House of Commons came before action could be taken but in the Address from the Throne, the Government restated its intention to proceed with implementation at this session.
12. It is a basic economic fact that magazines depend for their very existence upon their circulation - circulation sells advertising and advertising supplies the bulk of the money spent to produce the magazines.
13. Magazine advertising is a powerful producer of wants to be filled by the local supplier. The influence of this advertising reaches into all local business - it is the extra salesman serving all. The local insurance agent benefits, the automobile dealer gets a powerful assist, the druggist enjoys greatly increased sales of drugs and cosmetics, the grocer moves the nationally advertised products off his shelves - and so on right across the board.
14. To restrict the distribution of these advertisements upon which millions of dollars have been spent with one purpose only - the sale of goods handled by the local business man - would be a severe blow to any municipality.

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PART II

THE PROBLEMS PRESENTED BY DIRECT SALES OF MAGAZINE SUBSCRIPTIONS
AND WHAT THE PERIODICAL INDUSTRY HAS DONE ABOUT THOSE PROBLEMS

15. The degree of effectiveness of periodicals in the areas we have just dealt with will be in direct relation to their effective circulation. The objective is to have these publications reach every home. Then and then only would they be accomplishing what they must to survive.
16. To reach that objective every legitimate method at the disposal of the publisher must be used in order to give every Canadian an opportunity of buying these periodicals. These methods include sales of single copies on the newsstand, sales encouraged by presenting the opportunity to subscribe by means of direct mail, the employment of local part-time agents in all communities, and so on. These efforts, without direct sales, have been unable to deliver the circulation necessary to keep the publications alive. The most productive and logical way of widening the circulation of these periodicals is to call upon the prospective buyers in their homes and places of business.
17. To this end publishers and subscription agencies employ sales people, male and female, to contact prospective subscribers. They, in the main, are respectable Canadians of all ages who carry on their work in an ethical and law-abiding manner. They, like other Canadians, have their homes, have children and pay taxes. They are

2. The subject of a sentence is the answer to the question "What?" and it will be in direct relation to the predicate. The objective is the answer to the question "Whom?" or "What?" and it will be in indirect relation to the predicate. The subject and the predicate are the two main parts of a sentence.

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not hawkers nor are they peddlars, they are sales people selling nationally-known periodicals of repute at established prices.

18. As in any other segment of society, we find in this group from time to time a few who will not play the game according to the rules. Because of the very nature of their work, often at some distance from those controlling them, the bad actors have a greater opportunity to carry on for a period without being uncovered.
19. The periodical industry recognizes, and has recognized for years, this one difficulty in the sales operation - that of control of those on the fringe.
20. In 1950, Periodical Press Association sponsored a cooperative group of publishers and agencies banded together voluntarily to carry out such a policing job. Canadian Central Registry of Subscription Representatives (hereinafter called The Registry) was formed and today it includes among its members better than 95% of those concerned in periodical sales. The Registry is incorporated in the Province of Ontario where its central office is located and carries on the controlling supervision of operations throughout the whole of Canada.
21. Membership consists of publishers and agencies who are required to register all of their sales people with The Registry and to accept

responsibility for the actions of those sales representatives.

22. The Registry has Standards of Practice requiring strict adherence to decent selling. All members are required to deposit a cash bond guaranteeing adherence to those Standards and its Constitution contains provisions for the discipline of those members who allow their staffs to offend. The penalties include substantial assessments in dollars, in suspension, and in expulsion. (Copies of the By-Laws of this Corporation are available if your Committee would like to study them.)
23. The Registry issues 60 Day Licenses to representatives in good standing which have come to be recognized by police, licensing and other public bodies across Canada as the hallmark of good sales procedure. The re-issuing of these licenses every two months is under strict supervision and control. Holders of these licenses are required to present them to all licensing officials, police officers and prospective purchasers.
24. The Registry feels it has gone a long way towards the prevention of irregularities in the area of field sales of periodicals but then it may be prejudiced. Better that it should let a distinguished Canadian give his opinion as to the job it is doing. Mr. George B. McClellan, Deputy Commissioner, Royal Canadian Mounted Police, spoke to the members of The Registry at their recent Annual Meeting. Allow us to quote from Mr. McClellan's address:

"Your group (The Registry) and the RCMP have for some considerable time maintained in all parts of Canada a liaison of mutual assistance in our common problems.

It is, therefore, a pleasure for me to have this opportunity to speak to an organization which, among other things, was formed, and so states on its letter-head, to protect the public. This, of course, is the prime duty also of any police force.

...You, gentlemen, have taken steps to police your own business - you have set standards and qualifications - and you have provided penalties.

You are having success. While there are still, and will be, magazine salesmen who will violate ethical business practice, the situation today on your Anniversary is a far cry from the situation as I remember it in the early 30's."

25. The Registry, of course, works closely with the RCMP, provincial police in all provinces where the RCMP does not perform this function, local police, Boards of Trade, Chambers of Commerce, Better Business Bureaux, etc. By regular bulletins all of these bodies, plus other municipal and governmental officials, are kept informed regarding the industry situation in general and particularly as to those who have offended.
26. The Registry, through its 60 Day License, guarantees that every Canadian paying money to any registered agent receives full value for the amount paid. There are no "ifs" or "buts" - the guarantee is iron clad.
27. The operation of The Registry requires a considerable sum of money. This is assessed to the member organizations in amounts related

to the amount of business they do. Membership in the Registry is open to everyone willing to abide by its Standards and agreeing to observe them and who posts a cash bond guaranteeing performance.

28. As stated earlier in this brief, the industry believes in control. It not only believes in it, but practices it. But what of the fringe area consisting of the few operating outside of Registry controls. It is a very small segment of the whole but we recognize that it constitutes a problem to the large body of respectable sales people. There are restrictions, legal and otherwise, which prevent The Registry from reaching out to control these few. It is in that area that we would welcome the cooperation of the Government of Ontario.
29. Let us reiterate what we have said on several occasions to Ministers of Municipal Affairs in this Province of Ontario and to their deputies, to the Municipal Advisory Committee, to municipalities, etc. We are not opposed to licensing for control.
30. We have opposed and will continue to protest licenses which go beyond the area of control. Indeed these licenses are often exorbitant to the point of prohibition. They defeat the purpose for which they are intended. They circumscribe one of the basic freedoms - freedom of the press.

31. Periodical Press Association is anxious to cooperate with the Government of Ontario in this matter. We have been assured by its affiliate, the Canadian Central Registry of Subscription Representatives Incorporated, that it too will cooperate to the fullest extent. To that end, we will outline in the following pages a plan which we feel is constructive and which we commend to you for your earnest consideration and adoption.

*

PART III

SUGGESTIONS BY THE PERIODICAL INDUSTRY
DESIGNED TO PROMOTE MORE EFFECTIVE CONTROL

32. The Canadian periodical press industry (hereinafter referred to as the Industry) differs from most other industries which find it necessary to have travelling sales people in that this industry recognized it could best serve itself and the public by control and supervision of its travelling sales people. To do so the Industry organized the Canadian Central Registry of Subscription Representatives Inc., (hereinafter referred to as the Registry) whose successful function has already been described.
33. For over twelve years now the Registry has maintained its own office and staff and has "disciplined" its members. It has offered its cooperation and maintained contact with scores of Chambers of Commerce managers, Better Business Bureaux, municipal officials and public officers throughout Canada. It has been of very substantial benefit to the public of Ontario, indeed of Canada, without cost to the taxpayer.
34. Selling through travelling salespeople is a very expensive way of selling but the Industry has found it necessary to use this method for its economic survival as other industries have found. But because the periodical press in Canada is desirous of serving the Canadian reading public and its advertisers, upon whom it

1. THE

ATTITUDE OF THE PERIODICAL PRESS INDUSTRY
TOWARDS THE PUBLIC AND THE NEED FOR A
REGISTRY

1. The Canadian periodical press industry (hereinafter referred to as the industry) differs from most other industries which it is necessary to have travelling sales people in that this industry, especially, it could best serve itself and the public by concentrating an analysis of its travelling sales people. To do so the industry organized the Canadian Central Registry of Subscription Representatives Inc., (hereinafter referred to as the Registry) whose substantial function has already been described.

For over twenty years now the Registry has maintained its own office and staff and has "disciplined" its members. It has obtained its cooperation and maintained contact with members of the Canadian Commission of Commerce, former Business Bureau, municipal officials and public officers throughout Canada. It has been of very substantial benefit to the public of Canada, indeed of Canada, without cost to the taxpayer.

Believing that travelling salespeople is a very expensive way of selling but the industry has found it necessary to use this method for its economic survival as other industries have found. But because the periodical press in Canada is persons of service to the Canadian reading public and its advertisers, upon whom it

depends, it voluntarily took on the responsibility and expense of imposing rules of conduct upon its members and sales people set out in its Standards of Fair Practice.

35. It is strongly felt that in no event should any method of governmental control over the Industry or its salespeople be imposed that (a) would detract from what the Industry has and will accomplish by way of control and supervision through the Registry, or (b) put a financial or functional burden upon an already hard pressed industry that renders a recognized national service.
36. It is also strongly felt that before anything by way of governmental control is imposed upon the Industry through licensing of its salespeople or otherwise that there must be conclusive evidence that such governmental control would accomplish more for the public than the control, supervision, disciplinary and licensing method already existing through the Registry.
37. The Registry includes in its membership, as has been pointed out earlier in this brief, the substantial support of the Industry and all of these firms and their numerous personnel are required to conduct themselves in accordance with the high standards set by the Registry Constitution and the Standards of Fair Practice and, generally speaking, certainly do so. To curb the isolated offenders would be desirable but obviously restrictions that might adversely affect its business should certainly not be

imposed upon an industry that has done so much to control, discipline and supervise itself.

38. At the same time this Industry would welcome, and cooperate with, any legislation in Ontario that would do a better job of serving and safeguarding the public of Ontario than it has done itself over these past years. By simply passing on to municipalities the right to license representatives of this Industry, it is submitted, would neither serve nor protect the public better than is now the case unless safeguards and restraints are imposed.
39. It has been noticed that some municipalities exercise their power to regulate and control by imposing licensing fees that are so high that they deprive the honest, who offer genuine goods and services at fair prices, of the opportunity and right to do useful work for an honest living.
40. Quite understandably, for practical reasons a licensing system is often unable, in the first instance, to distinguish between those who may conduct themselves openly and those who may not, or between those who may sell legitimate goods of good quality at fair prices and those who may not.
41. On the other hand some distinction is quite possible and should be made (a) between those who offer for sale periodicals that have been acknowledged over the years as important to the nation

and those who do not; (b) between those who are offering periodicals from which the local merchants benefit by the demand created by the advertising in them of national products locally sold and those who are in competition directly with the local merchant; (c) between those who sell low price goods and services and those who sell high price appliances; (d) between those whose cost of selling is a very substantial part of sale price and those whose cost of selling is only a nominal part; and (e) between those who may be selling in a municipality for most of the year and those who may be doing so for only a few days of the year.

42. An annual municipal license fee of \$25.00 or even more, may be considered quite fair in some cases and industries but would be grossly excessive for this Industry in most cases. Obviously such fees of excessive amounts would mean not regulation but prohibition. One result of excessive license fees is that honest representatives of legitimate businesses are forced out of areas thus leaving the areas open for surreptitious exploitation by the unscrupulous even though few in number.

43. There exists a considerable body of criminal and civil laws and enforcement officers for the protection of the public from dishonest persons whether door to door salespeople or others. As already outlined, the periodical press industry in Canada has provided additional protection through the Registry, and its

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office and organization are also available and at the disposal of the public if any contact, restitution or adjustment is desired. In any event, this Industry is generally made up of nationally known and responsible businesses who may readily be called upon to answer for and are anxious to make good, whenever possible, the representations of its salespeople.

44. If all factors mentioned are taken into due account and it is concluded that some method of governmental control can be formulated for this Industry, the terms of which would offer better service and protection to the public than those already offered by the self-disciplining and licensing functions of the Registry in this Industry, there is every reason to expect the wholehearted cooperation of the Industry in such governmental action. Also, if such a conclusion is reached, Periodical Press Association and the Canadian Central Registry of Subscription Representatives Inc. would be prepared to cooperate by making available its experience and personnel and taking part in preparing the detailed provisions of any such method.

45. In the meantime it is respectfully urged that no method would be desirable or practical unless it provided for:

- a) the automatic licensing in all areas of those persons, firms and salespeople already licensed by the Registry upon payment of the prescribed fees;

either and organization are also involved and at the disposal of the public in any case, restriction or adjustment is required. In any event, this industry is generally made up of individuals known and responsible business who are ready to be called upon to assist for and are anxious to make good, whenever possible, the representation of the scientists.

If all factors mentioned are taken into due account and it is considered that some method of governmental control and influence is needed for this industry, the forms of which would differ rather according to production to the public than those already offered by the self-disciplining and licensing functions of the Registry in this industry, there is every reason to expect the wholehearted cooperation of the industry in such governmental action. Also, if such a organization is required, Petitioner Trust Association and the Canadian Central Registry of Registration Representatives would be prepared to cooperate by making available the experience and personnel and taking part in preparing the details of provisions of any such method.

In the event that it is respectfully urged that no method would be desirable or practical unless it provided for:

- (a) the automatic licensing in all cases of those persons, firms and enterprises already licensed by the Registry upon payment of the prescribed

- b) a form of provincial licensing;
- c) coupled with local endorsement or registration if the locality so desires;
- d) with a central or "parent" license for businesses;
- e) with subsidiary or salesmen's license for individuals;
- f) with a provincial license fee in a reasonable amount;
- g) with a nominal local registration fee but exempting selling in or out of local offices or business places, selling by local residents, by newspaper boys, and for religious or philanthropic purposes, and also exempting the sale of subscriptions by local schools and the building up of routes by newspaper boys.

46. At present the Registry issues sixty (60) day licenses to salespeople on the application of its members and retains control over them as provided in its Constitution, and Standards of Fair Practice already referred to. The Registry requires that those holding such licenses attend, before working an area in Ontario, at the Chamber of Commerce serving the area to present this license as a credential and make themselves known so that the municipality will be aware of who has come to sell

within its boundaries.

47. If there is to be any licensing of magazine salespeople it is urged that it be a form of provincial license which would be granted to applicants who file appropriate bonds and pay annual fees as follows:

(i) where no salesmen will be appointed, not more than \$25.00

(ii) where up to 10 salesmen may be appointed, not more than \$50.00

(iii) where over 10 salesmen may be appointed, not more than \$100.00

48. Upon application to the provincial authority by the bonded holder of a provincial license, salesmen's licenses should be issued forthwith for the salesmen it names for the nominal fee of \$1.00 each.

49. The provincial licenses should be issued, upon application and the filing by the applicant of an appropriate bond in a reasonable amount, for a one year period and automatically renewed upon application and payment of the annual fee except for good cause, with a right of appeal from any refusal by a summary and inexpensive method.

50. It is desirable for municipal administrations to have the right by appropriate by-laws, subject to provincial approval thereof, to require salesmen holding provincial licenses to present for registration their licenses to municipal authorities, who, upon

payment of a fee not exceeding \$1.00, will endorse the license for the municipality, but the holder of the required provincial license shall not be required to obtain any other license or permit for selling anywhere in the Province of Ontario.

51. There are in this Industry several persons who through many years of active participation have acquired a good deal of experience and it is this experience that has prompted much that appears in this brief. Much more could be said and if any more information or any consultation is desired, the Industry and the officers and personnel of Periodical Press Association and the Canadian Central Registry of Subscription Representatives Inc. are anxious to cooperate and will do their best to supply it on request.
52. It is again urged that every precaution be taken to ensure that the Industry not be interfered with in its efforts to maintain as great a distribution of its publications as it can, throughout the Province of Ontario, because it is upon this that the level and in fact the survival of the Canadian periodical press depends.

Respectfully submitted

Periodical Press Association

J.L. Davis, President

G.V. Laughton,
Chairman, Circulation & Traffic Committee

payment of a fee not exceeding \$1.00, will be the licensee
for the year 1961, and the holder of the required professional
license shall not be required to obtain any other license or
registration for the year 1961.

There are in this industry several persons who through many years
of active participation have acquired a good deal of experience
and it is this experience that has prompted much of the progress in
this field. It is now being said and it may be true that
on any consideration is needed, the industry and the officers
and members of the industry (those /association and the industry/
national body of the industry /association and the industry/
to consider and to the best of its ability to supply it as requested.

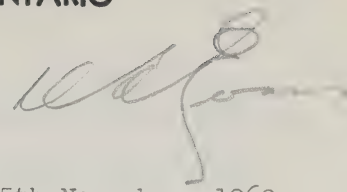
It is also urged that every person be taken to ensure
that the industry not be considered with its efforts to
achieve its goals a consideration of the implications as it can,
then, that the industry of the industry, because it is upon this that
the level and in fact the survival of the industry depends.

It is respectfully submitted

G.V. [unclear]
Chairman, National Traffic Commission

THE PETROLEUM ASSOCIATION OF ONTARIO

11TH FLOOR, BOARD OF TRADE BUILDING
11 ADELAIDE STREET WEST
TORONTO 1



15th November, 1962.

TO: THE SELECT COMMITTEE OF THE
LEGISLATIVE ASSEMBLY OF THE
PROVINCE OF ONTARIO ON THE
MUNICIPAL ACT AND RELATED ACTS.

The Petroleum Association of Ontario (herein
called the "Association") respectfully submits as follows:

The Association is a voluntary trade association formed in 1955.

The members of the Association are:

British American Oil Co. Ltd.
B.P. (Canada) Ltd.
Canadian Oil Companies, Ltd.
Canadian Petrofina Ltd.
Cities Service Oil Co. Ltd.
Imperial Oil Ltd.
Texaco Canada Ltd.
Shell Oil Co. of Canada Ltd.
Sun Oil Co. Ltd.
Supertest Petroleum Corp. Ltd.

A copy of the Constitution of the Association is attached as Appendix A.

The objects of the Association are,

1. To advance the general interests of the petroleum industry;
2. To serve as the interpreter of the petroleum industry and to develop favourable relations with municipal and other governments, their departments and agencies;
3. To develop and implement good public relations and practices.

THE UNIVERSITY OF CHICAGO
LIBRARY

1921-22

1921-22

The Association has chapters in the cities of London, Ottawa and Hamilton in addition to the parent body in Toronto.

The marketing of motor fuels is the principal business of the members of the Association which comprise all the major suppliers of motor fuels in Ontario.

The Association is continuously concerned to eliminate restrictions on the marketing of these products.

A copy of the Sections of The Municipal Act affecting the marketing of motor fuels is attached as Appendix B.

The Sections of The Municipal Act quoted in Appendix B are,

Section 1(i)
Section 379(1), paragraphs 120, 122, 127,
128, 129.
Section 379a
Section 379b

Other Statutes having an important bearing on the marketing of motor fuels are The Gasoline Handling Act and The Planning Act.

PART I

The Association is concerned with the following:

1. A reading of the provisions of The Municipal Act and Related Acts applicable to the retail marketing of motor fuels reveals overlapping and inconsistencies and a lack of clarity. In consequence there is much uncertainty in the interpretation of these provisions and in their application

to the day to day activities of those engaged in the trade.

2. Furthermore individual municipal councils tend to reproduce the same inconsistencies in their by-laws and administration and collectively they do not achieve the uniformity across the province which is desirable in a business which extends into almost every municipality.

3. The difficulties expressed in paragraphs 1 and 2 lead to unequal competitive conditions among persons engaged in the on-site supply of motor fuels to the public and a pronounced tendency to bring municipal administration into disrepute because of erratic and in some instances discriminatory enforcement by municipal officers of the provisions of local by-laws and because of the advantages which some persons obtain over competitors who endeavour to adhere more scrupulously to the restrictions imposed. The same unequal competitive situations exist along the borders of adjoining municipalities which have substantial differences in their by-laws.

4. The constantly changing methods of merchandizing which are characteristic of today compel those who are in this business to have room to manoeuvre and adapt. The less restriction the better are their chances of surviving by adjusting their business practices to the needs of present day urban redevelopment and suburban development. This is particularly true of those engaged in the on-site supply of motor fuels to the public. For example, the retail sale of

gasoline is being added as an adjunct to other business operations, but there are annoying restrictions on the adding of other business operations to the retail sale of gasoline.

5. The term automobile service station is defined for a limited purpose in paragraph 128(a) of Section 379(1) of The Municipal Act as follows:

A building or place where gasoline, oil grease, anti-freeze, tires, tubes, tire accessories, electric light bulbs, spark plugs and batteries for motor vehicles are stored or kept for sale or where motor vehicles may be oiled, greased or washed or have their ignition adjusted, tires inflated or batteries charged or where only minor or running repairs essential to the actual operation of motor vehicles are executed or performed.

In addition certain prohibited purposes are set out in paragraph 128(b) of Section 379(1) of The Municipal Act.

This definition has been incorporated by reference or copied for use in other areas of legislation relating to municipalities and in the by-laws of municipalities.

The result of singling out this business by definition has been unconsciously but inevitably, because of the detail included in the definition, to limit the business of the on-site supply of motor fuels to the public so as to prevent the operator from engaging in other business activities on the same location. This is an interference with his freedom to extend his business when the object of the powers conferred on municipalities is to regulate not to restrict.

6. A codification of the regulations pertaining to the on-site supply of motor fuels to the public might eliminate the need to distinguish between service stations and public garages and thus go some way to avoid the limiting effects of minute classification on the range, variety and diversity of services now being offered to the motorist in many places in addition to the on-site supply of fuel.

7. The powers given to municipalities under The Planning Act appear to this Association to have different objectives from the licensing powers given under The Municipal Act. Yet some municipal councils use the licensing powers for zoning and vice versa. There is a tendency by detailed and minute limitations of the use of small parcels of land to control particular business operations, particularly the business of on-site supply of motor fuels to the public. Such minute restriction of the use of a parcel also reduces its value.

The objectives sought to be achieved by the Planning Act are commendable, relating as they do to what may be called the cosmetic development of municipalities.

The concern of the Association is to ensure that the objectives of the two statutes are not intermingled.

8. A further matter of specific concern to the Association is the degree and extend of regulation by by-law whether under The Municipal Act or The Planning Act of signs and advertising and particularly of display advertising

when applied to the business of the on-site supply of motor fuels to the public.

9. The hours during which those persons engaged in the business of the on-site supply of motor fuels to the public may conduct their business is a specific separate topic on which the Association would like to submit its views.

The Association requests leave to make representations to your Committee at a later date on these and other matters which are of concern to the Association. It proposes, where possible, to make specific recommendations and suggestions for the elimination of those provisions which the Association considers to be out-dated, unnecessarily restrictive, obsolete, conflicting or confusing, rather than properly regulatory having regard to present day conditions.

PART II

The Association respectfully recommends at this time:

That the power of the councils of cities, towns, villages and townships to pass by-laws "for limiting the number of public garages and automobile service stations where gasoline is stored or kept for sale" now contained in paragraph 129 of Section 379(1) of The Municipal Act be withdrawn.

Business premises for the retail sale and delivery of gasoline directly into motor vehicles, whether called public garages or automobile service stations or any other name are an ordinary feature of our economy and have

been for several decades. They are to be found and are needed everywhere in the settled parts of the province just like other retail business premises which sell food, fruit, clothing, hardware and other commodities, but unlike these other business premises they may be subject to limitation in number by municipal by-law.

What justification is there for picking out the retail vendors of gasoline for special treatment by authorizing municipalities to pass by-laws to limit their numbers?

It may be said in favour of the clause:

1. Gasoline is a dangerous substance to store and sell. So it is; and the handling of gasoline is fully regulated in detail by a provincial statute, The Gasoline Handling Act, and regulations made thereunder. These have been so extended in recent years as to make municipal control unnecessary and a wasteful duplication of provincial control.

2. Service stations are objectionable because of their outdoor aspects. They may be. This problem is fully controlled or controllable by modern planning and zoning powers and by civil and criminal proceedings for nuisance and by the powers of municipal councils to pass air pollution control by-laws.

3. Municipalities must control the location, construction and operation of drive-in open-air business premises. If this is so they have ample powers to do so by

zoning, building and licensing by-laws.

This particular paragraph was passed in 1937 at the urging of the Independent Gasoline Retailers Association of Ontario and with the support of the City of Toronto (but not of other municipalities).

Clearly the desire and effect was to limit competition in favour of existing operators. The immediate purpose appears to have been to restrict the Joy Oil Company, a new and active competitor. "Hard cases make bad law" and general legislation to deal with a specific hard case often turns out to be bad legislation.

In principle it is not the function of municipal government to restrict wholesome and necessary trade, nor to stifle fair competition; to substitute their judgment in economic matters for the judgment of those engaged in the business. Trade and commerce in general are federal subjects. The Criminal Code deals with unfair competition and restraint of trade. Provincial jurisdiction in this field is limited. The provinces cannot close their borders to inter-provincial trade. Why should municipalities be encouraged to close their boundaries to new businesses which are prepared to comply with all proper control? Why should they be encouraged to restrict or interfere with normal trade?

As the law stands a municipal council could effectively prohibit the trade in question by arbitrary limitation of the number of outlets to as few as two without

its decision being subject to appeal or review by the Courts or the Municipal Board.

The only other instances of such powers being given are in connection with licensing, namely:

Sec. 395 for limiting the number of taxicabs and motor vehicles licensed for hire;

Sec. 399(1) limiting and licensing victualling houses and places for lodging, reception, refreshment or entertainment of the public; and

Sec. 401(1) limiting the number of licences to persons who run pool rooms.

In each of these cases the power to limit is incidental to the power to licence.

The Association understands that no area municipality within the Municipality of Metropolitan Toronto has in fact exercised its power of limitation by number under any of the foregoing Sections and that the only number limitation imposed by Metropolitan Toronto is with respect to the number of taxicabs determined at the present time on a ratio of one taxicab per ~~100~~ 100,000 of population.

There seems to be no parallel between limiting the licensing of places where the public are fed and entertained and limiting (apart altogether from licensing) places of ordinary retail sale.

It can scarcely be argued that the sale of motor fuel is a public utility and warrants monopoly pro-

tection by any municipality. If it were such, there would necessarily be price control of the product to prevent abuse of the monopoly.

The legislation in question tends to produce another kind of monopoly. Where the total number of licences permitted have been issued under a by-law the effect is to give the outstanding licences a sale value. It is true that the licences are not transferable but anyone wishing to establish a new station, if he cannot get the by-law extended, has to try to acquire an existing licence and then negotiate with the Municipality to accept him in place of the licensee. The sale value of a licensed station can thus be increased quite substantially because of the scarcity of licences.

The situation is similar to that of liquor licences. There the scarcity value of the licences creates so much unearned value that the Government has put a heavy tax on this excess value when transfer is made of licence permits and the purchaser is accepted as a new licensee.

We cannot think that the Legislature would like to continue the trafficking in service station licences.

Legally the licence does not "run with the land" on which the service station is built but the tendency is to regard it as doing so as no new licence can be issued until an existing licence is terminated where the limit under a numbers by-law has been reached and council will not increase it.

Apart from the problem of trafficking in licences municipal councils are faced with the problem of who is to get the new licence when one opens up. If there are several applicants on what basis is one to be chosen?

The numbers by-laws encourage unfair discrimination between rival interests and open the door to administrative favouritism from which there is no appeal. The Court has expressed its disapproval of this sort of jockeying.

The case of Regina v. Scarborough, Ex Parte Blue Sky Construction Company (1960) O.W.N. 535, was an application for an order in lieu of a writ of mandamus requiring the municipality to issue a permit for the erection of a building to be used as a service station.

An oil company who wished to acquire from the applicant a site for a service station through its agents applied for a permit the 17th May, 1960. It was common ground that the application and the material filed were in proper form and in fact the Planning Board marked it "no objection". However, 16th May council rejected the application on the grounds that on a previous occasion a similar application had been refused. A witness who attended the meeting said that the reason given by those councillors who voted against granting the permit was that by-law 9031 limited the number of service stations within the municipality to 257. At the same meeting council approved two other similar applications (to one of which the Planning Board had

objected) and at the same time amended by-law 9031 by adding two more stations. The matter was re-heard 13th June and the application again refused. Another application, this time in the name of the applicant was made in July. It was stated that the Building Commission had indicated that no permit could be granted unless the council could be persuaded to reconsider its position. The property owner in the circumstances accordingly made this application for an **order** in lieu of a writ of mandamus to compel the issuance of the permit.

Stewart, J. in a written judgment after stating the facts said, among other things, that it was urged upon him that by-law 9031 was being used in an illegal, unjust and discriminatory fashion.

He went on to say that by-law 9031 was properly passed under Section 388 (123) of the Municipal Act, R.S.O. 1950, c.243 (which is now Section 379(1), p.129 of the Municipal Act, R.S.O. 1960, c.249) which empowers municipalities to pass by-laws for limiting the number of service stations in the municipality. In 1959 the number was raised from 253 to 255. In April 1960 the number was raised to 257 and in July 1960 to 258. It seemed clear that the municipality first decided whether it wished to grant a permit or not and if it did by-law 9031 was suitably amended. If it did not wish to grant the permit the by-law was invoked and the application was refused. That ingenious but distasteful

device could be and actually was used for discriminatory purposes, but nevertheless mandamus did not lie.

The application was therefore dismissed but in the circumstances without costs and Stewart J. stated that he had arrived at this result with great reluctance and he hoped that the matter would go further. An appeal was launched but later withdrawn.

Some municipalities have refused licences to numerous applicants whose business judgment prompts them to wish to open a business in the municipality.

It is interesting to note that the City of Toronto by-law enacted in pursuance of paragraph 129 is not needed today. The numbers permitted is substantially in excess of the actual number of licences outstanding. Only 45 of the 920 municipalities concerned have enacted such by-laws, that is:

| | |
|-----------------|----------------------|
| 6 out of | 30 cities |
| 23 out of | 158 towns |
| 10 out of | 158 villages |
| <u>6</u> out of | <u>574</u> townships |
| 45 out of | 920 municipalities |
| — | — |

In far too many cases these by-laws which are valid and appear non-discriminatory on their face have been used not to establish a general plan but to deal with individual applications for licences, to give the councils power to refuse

a qualified applicant who would otherwise have to be accepted; in short, to discriminate.

Where such by-laws are used for zoning purposes it should be noted that it is not possible to have the by-laws reviewed by the Ontario Municipal Board, as may be done in the case of by-laws properly passed for zoning under The Planning Act.

For this and other reasons which will occur to the Committee we ask that the Committee recommend to the Legislature that paragraph 129 of Section 379(1) of The Municipal Act be repealed, all of which is respectfully submitted.

On behalf of The Petroleum Association
of Ontario,

"D.R. Michener"

Counsel

"J.A. Renwick"

Counsel

Appendix A

THE PETROLEUM ASSOCIATION OF ONTARIO

Branch of

THE BOARD OF TRADE OF METROPOLITAN TORONTO

BY-LAWS

Article I

Name

Section 1

The name of this Trade Branch shall be "The Petroleum Association of Ontario of the Board of Trade of Metropolitan Toronto", hereinafter called "the Branch".

Article II

Objects

Section 1

The objects of this Trade Branch shall be

1. To advance the general interests of the petroleum industry.
2. To serve as the interpreter of the petroleum industry to, and to develop favourable relations with, municipal and other governments, their departments and agencies.
3. To develop and implement good public relations practices.

Article III

Membership

Section 1

A Member of the Branch shall be any firm, partnership or corporation engaged in the business of refining automotive fuels and lubricants or heating oils or of distributing automotive fuels and lubricants or heating oils on a wholesale basis with a principal place of business in the Metropolitan Toronto area, which is represented in good standing in the membership of the Board of Trade of Metropolitan Toronto and which is duly elected a Member of the Branch by a vote of two-thirds or more of the Members at a properly constituted meeting of the Branch, and which shall have paid the prescribed fee to the said Branch and have agreed in writing to observe the By-laws of the Branch.

Section 2

Each Member of the Branch shall appoint a representative and an alternate representative. The alternate representative so named shall, in the absence of the representative, exercise all the rights and powers, including that of voting, of the appointed representative. The representative or alternate representative, as the case may be, shall have full power to exercise all the rights and perform all the duties, under these by-laws, of the Member they represent.

Section 3

Any firm, partnership or corporation which desires to become a member of the Branch shall be nominated by two Members in good standing, such nomination to be made in writing addressed to the Secretary.

Section 4

The interest of a Member of the Branch shall not be transferable but any Member may resign its membership by notice in writing addressed to the Secretary, and such resignation shall take effect forthwith on receipt thereof by the Secretary, who shall immediately inform all members of the Branch.

Section 5

Any Member which ceases to be engaged in the petroleum industry, as provided in Section 1 of this Article, shall automatically cease to be a member of the Branch and shall not again be eligible for membership in the Branch until it shall again become so engaged and shall have again been elected to membership, as provided in Section 1 of this Article.

Section 6

A Register of the Members of the Branch shall be kept at the office of the Secretary of the Branch.

Article IV Fiscal Year - Fees

Section 1

The fiscal year of the Branch shall commence on the first day of September in each year and shall end on the thirty-first day of August in the year next ensuing.

Section 2

The amount of membership fees shall be set by a general meeting of the Branch to be convened by the Executive

Officers as soon as convenient after their election each year. The membership fees shall be payable in such portions and at such times as the Branch from time to time directs.

Section 3

Should the funds of the Branch at any time be insufficient for the purposes of the Branch, the Branch may, by a vote of two-thirds or more of the Members present at a properly constituted meeting of the Branch, levy a special assessment upon the members of the Branch to cover the amount of the deficiency.

Article V Executive Committee

Section 1

The affairs of the Branch shall be managed by an Executive Committee comprised of the Chairman, Vice-Chairman, one additional elected member and also one ex-officio member (not elected). The immediate Past Chairman shall be the ex-officio member of the Executive Committee. The ex-officio member shall have no voting right. A quorum shall consist of a majority of the elected members.

Section 2

The Branch may, with the consent of not less than two-thirds of the Members increase or reduce the number of members of the Executive Committee at any time.

Section 3

The members of the Executive Committee shall be elected annually at the annual meeting and shall hold office for one year, or until their successors are elected.

Section 4

Vacancies in the Executive Committee may be filled by a majority vote of the Members of the Branch represented at a regularly constituted meeting, and any member so elected shall hold office until the next election of the Executive Committee at an Annual Meeting.

Section 5

(a) The Executive Committee may meet for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

(b) Questions arising at any meeting of the Executive Committee shall be decided by a majority of votes of the elected

members thereof present including the Chairman but excluding the ex-officio member.

(c) The Executive Committee shall have authority to authorize the expenditure of the funds of the Branch in the ordinary course of its business for the purpose of carrying out its objects, but shall not have authority to incur any extraordinary expenditure without the approval of the members in general meeting.

(d) A resolution signed by all the members of the Executive Committee shall be as valid and effectual as if passed at a meeting of the Executive Committee duly called and constituted. Complete records of action taken by the Executive Committee under the authorization of this Section shall be incorporated in the records thereof.

(e) Only one member, shareholder or representative of a firm, partnership or corporation shall be eligible for election to the Executive Committee.

Section 6

The Executive Committee shall have power to appoint committees, and to delegate to such committees any of their own powers, and such committees shall have authority to regulate their own proceedings and to transact such business as may be delegated to them by the Executive Committee, and shall report the proceedings of their meetings to the Executive Committee, but otherwise shall not have authority to bind the Executive Committee or Branch.

Article VI Officers

Section 1

The Officers of the Branch shall consist of the Chairman, Vice-Chairman, Secretary and Treasurer. The Secretary and Treasurer may be one and the same person.

Section 2

The Chairman and Vice-Chairman shall be elected, as provided in Section 3 of Article V, at the Annual Meeting of the Branch each year by a majority vote of the Members. If during the year a vacancy shall occur in either of the aforementioned offices, such vacancy shall be filled by a vote of the Members of the Branch, as provided in Section 4 of Article V.

Section 3

The Secretary and Treasurer shall be appointed by the General Manager of the Board of Trade of Metropolitan

Toronto and shall perform such duties as shall be agreed between the General Manager and the Executive Committee of the Branch.

Section 4

The Chairman shall, except as hereinafter provided, preside at all meetings of the Branch and of the Executive Committee, shall call, or direct the Secretary to call, all meetings of the Branch and Executive Committee, and shall perform such other duties as may be incident to his office. The Chairman may, in his discretion, nominate some other member in good standing to act as Chairman in his stead at any meeting at which he is in attendance. The Chairman shall be a member ex-officio of all Committees.

Section 5

The Vice-Chairman shall, in the absence of the Chairman, except as hereinafter provided, preside at all meetings of the Branch and Executive Committee and shall also, in the case of absence or inability of the Chairman to act, exercise such other authority as is vested in the Chairman. The Vice-Chairman in attendance at any meeting at which the Chairman is unable to attend may, in his discretion, nominate some other member in good standing to act in his stead. If neither the Chairman nor Vice-Chairman is present at a meeting of the Branch or Executive Committee, the members of the Branch or Executive Committee (as the case may be) present at the meeting shall choose one of their number to be Chairman.

Section 6

The Secretary shall attend and keep a record of the proceedings at all meetings of the Branch and of the Executive Committee. In the absence of the Secretary at any meeting, a Secretary pro tem shall be appointed for that meeting. The Secretary shall also keep the register of members and such other books as are required by law to be kept.

Section 7

The Treasurer shall, subject to the Executive Committee, have the custody of all moneys belonging to the Branch and shall cause an account of the same to be kept and the same to be deposited in a chartered bank in the name of the Branch, or otherwise, as the Executive Committee may direct. He shall also pay all accounts when passed by the Executive Committee and certified by both the Chairman and Vice-Chairman. He shall cause to be prepared and submit at the Annual Meeting of the Branch a statement of the financial affairs of the Branch.

Article VII
Meetings of the Branch

Section 1

The Annual Meeting of the Branch shall be held in the month of September or at some other time each year on a day and at a time to be fixed by the Executive Committee.

Section 2

The Executive Committee may, whenever they think fit, and shall, upon requisition made in writing by any two or more Members, convene a general meeting. Such requisition shall express the object of such meeting and shall be submitted to the Chairman, the Vice-Chairman or the Secretary of the Branch. On receipt of such requisition, the Executive Committee shall forthwith convene a general meeting, and if they do not convene the same within twenty-one days from the receipt of the requisition, the Members signing the same, or any two or more of them, may themselves convene a meeting.

Section 3

At least three days' notice of any general or special meeting specifying the place, the date and the hour of the meeting, and, in case of special business, the general nature of such business, shall be given to the Members in the manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Executive Committee, and such notice shall be deemed to be effectively given if mailed to each Member by prepaid letter addressed to each of them at their address appearing on the register of members. Notice of general or special meeting may be waived in writing.

Section 4

A majority of the Members shall be necessary to constitute a quorum at a general or special meeting, and if within one-half hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened on the requisition of the Members, shall be dissolved. In any other case, it shall stand adjourned until a date at least three days later, fixed by the Chairman at the meeting and shall be held at the same hour and place, and if at such adjourned meeting a quorum is still not present, it shall be adjourned sine die.

Section 5

The Chairman may, with the consent of the meeting, adjourn it from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business for which the original meeting is called.

Section 6

At any general or special meeting, unless a poll is demanded, a declaration by the Chairman that a resolution has been carried and an entry to that effect in the minutes of the proceedings of the Branch shall be sufficient evidence of the fact without proof of the number or the proportion of the votes recorded in favour of or against the resolution. If a poll is demanded by resolution of the meeting duly carried, the same shall be taken in such manner as the Chairman directs, and the result shall be deemed to be the resolution of the Branch in general meeting.

Section 7

Every Member shall have one vote only on any resolution or election. In the event of an equality of votes, the Chairman of the meeting shall have a casting vote.

Section 8

The order of business at meetings shall be as follows:

- First - The reading of minutes of previous meeting;
- Second - Reports of the Secretary and Treasurer;
- Third - Reports of Standing Committees;
- Fourth - Reports of Special Committees;
- Fifth - Notice of Motion;
- Sixth - Unfinished Business;
- Seventh - General Business;
- Eighth - Election of Officers;

but the Chairman of the meeting may change the order of business and his decision shall be final on all questions of order. He shall, however, not permit debate except on a motion regularly before the meeting.

Article VIII Combines

Section 1

The Branch shall not directly or indirectly attempt to deal with any combine, merger, trust, monopoly or other practice within the meaning of the Combines Investigation Act.

Article IX Board of Trade Control

Section 1

The Branch shall be subject to such By-laws and Regulations for the governance of Trade Branches as The

Board of Trade of Metropolitan Toronto and the Council thereof may from time to time enact.

Section 2

All information or matter intended to be communicated to an individual or the public, in a manner designed to attract attention in which the name of The Board of Trade of Metropolitan Toronto is to be used, either separately or as a part of, or in association with the name of the Branch or any member or members thereof, shall be submitted to the Council of the Board for approval and no such information shall be made public or otherwise used until approved by the said Council.

Article X Discipline

Section 1

The Executive Committee shall have power, at their discretion, to suspend or expel any Member of the Branch whose business conduct they deem detrimental to the objects of the Branch. The Executive Committee, however, shall not suspend or expel any Member until at least ten days' notice in writing shall be given by the Secretary to such Member stating in detail the complaint against such Member and the time and place of a meeting of the Executive Committee to consider such complaint, and such Members shall be entitled to have representation at such meeting and make such answer to the complaint as it may deem fit. After hearing such answer, or if it does not appear at such meeting, the Executive Committee may, at its discretion, proceed as aforesaid to suspend or expel such Member. If, however, such Member, after making its answer as aforesaid, deems itself aggrieved by a decision to suspend or expel it, it shall be entitled by notice in writing given to the Secretary to have a general meeting of the Branch summoned to consider such decision of the Executive Committee, and the Secretary shall summon such a meeting of the Branch in accordance with these By-laws within five days after receiving such notice. At such meeting the Branch shall hear and consider such decision, complaint and answer and shall pass such resolution as it may deem appropriate. If, however, such Member still deems itself aggrieved by the decision of the Branch, it shall be entitled to a further appeal to the Council of the Board of Trade of Metropolitan Toronto, such appeal to be made in writing, addressed to the General Manager of the said Board. The decision of the said Council shall be binding and final on all interested parties.

Section 2

The Branch shall not be bound to admit, elect or re-elect to membership any Member who has been expelled from membership.

Article XI
Amendments

Section 1

The Branch shall have power to amend these By-laws from time to time as may be deemed advisable, but such amendments shall not become operative or effective unless passed by two-thirds of the votes of the Members, at any general or special meeting, following notice thereof having been given at a previous general or special meeting, and also by mail to each of the Members under Section 3 of Article VII, and until approved by the Council of The Board of Trade of Metropolitan Toronto.

Appendix B

THE MUNICIPAL ACT

REVISED STATUTES OF ONTARIO, 1960

Chapter 249

as amended by

1960-61, chapter 59 and 1961-62, chapter 86.

SECTION 1 (1) "local municipality" means a city, town, village and township.

SECTION 379 - (1) By-laws may be passed by the councils of local municipalities:

120. For regulating the location, erection and use of stables, garages, barns, outhouses and manure pits.

122. For prohibiting or regulating the erection of signs or other advertising devices and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway.

127. For licensing and regulating the owners or operators of public garages, and for fixing the fees for such licences, and for revoking such licences, and for imposing penalties for breaches of such by-law and for the collection thereof.

- (a) For the purpose of this paragraph, a public garage includes an automobile service station as defined in clause a of paragraph 128, a parking station or a parking lot or a building or place where motor vehicles are hired or kept or used for hire or where such vehicles or gasoline or oils are stored or kept for sale, and a building or place used as a motor vehicle repair shop or for washing or cleaning motor vehicles.

128. For licensing, regulating and governing the owners or keepers of automobile service stations located or erected since the 25th day of June, 1928, within any defined area or areas or on land abutting on any defined highway or part of a highway in which area or areas or on which land the erection or location of garages to be used for hire or gain or gasoline and oil filling stations was on the said date or at any time thereafter prohibited by a by-law, and for fixing a fee not exceeding \$10 for such licence, and for providing that a licence shall not be

granted to any person as an owner of a public garage located or erected within any such area or on any such land notwithstanding that prior to the passing of this section any such person may have been granted a licence as theowner of a public garage.

- (a) For the purposes of this paragraph, an automobile service station means a building or place where gasoline, oil, grease, anti-freeze, tires, tubes, tire accessories, electric light bulbs, sparkplugs and batteries for motor vehicles are stored or kept for sale, or where motor vehicles may be oiled, greased, or washed, or have their ignition adjusted, tires inflated or batteries charged, or where only minor or running repairs essential to the actual operation of motor vehicles are executed or performed.
- (b) No person owning or keeping an automobile service station licensed under this paragraph shall use or permit it to be used for the purpose of wrecking, parking, storing or selling motor vehicles, or, except in an enclosed building, for washing motor vehicles, or for vulcanizing tires or tubes or for exhibiting for sale any accessories mentioned in clause a except in an enclosed building, or for exhibiting the same for sale in any display window, or for performing therein any repairs to motor vehicles other than those mentioned in clause a, or for storing and keeping for sale any article, accessory or merchandise of any kind other than those expressly mentioned in clause a hereof, and it is the duty of such owner or keeper to prevent the use of an automobile service station for any such prohibited purpose.
- (c) The owner or keeper of an automobile service station guilty of any infraction of any of the provisions of clause b is subject to the penalties set forth in the by-law permitting the location or erection thereof or the licensing of the same as for an infraction of such by-law.
- (d) Nothing in this paragraph shall be deemed to authorize the location or erection of any automobile service station contrary to any by-law in force under section 30 of

The Planning Act or a predecessor of such section.

- (e) A licence may be required under this paragraph in addition to a licence under paragraph 127.

129. For limiting the number of public garages and automobile service stations where gasoline is stored or kept for sale.

SECTION 379a. (1) In this section and in any by-law passed thereunder,

- (a) "closed" means not open for the serving of any customer;
- (b) "shop" means a building or part of a building, booth, stall or place where goods are exposed or offered for sale by retail, and barbers' shops, beauty parlours, shoe repair shops, shoe shine shops and hat cleaning and blocking businesses, but does not include a place where the only trade or business carried on is that of a licensed hotel or tavern, victualling house or refreshment house.

(2) Nothing in this section or in a by-law passed under it renders unlawful the continuance in a shop after the hour appointed for the closing thereof of any customers who were in the shop immediately before that hour or the serving of such customers during their continuance therein.

(3) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops in the municipality shall be closed and remain closed on each or any day of the week at and during any time or hours between 6 o'clock in the afternoon of any day and 5 o'clock in the forenoon of the next following day.

(4) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops in the municipality shall be closed and remain closed on one particular day of the week during any time or hours between 12.30 o'clock in the afternoon and 5 o'clock in the forenoon of the next following day.

(5) The council of a city, town or village may by by-law require that during the whole or any part or

parts of the year all or any class or classes of shops in the municipality shall be closed and remain closed on one particular day of the week during the whole of such day and until 5 o'clock in the forenoon of the next following day.

(6) The council of every township has, with respect to any part of the township designated in the by-law, all the rights and powers conferred by this section on the council of a city, town or village and may pass by-laws that apply only to the part of the township so designated.

(7) A by-law passed under this section takes effect at a date named therein, being not less than one nor more than two weeks after its passing and shall before that date be published in such manner as to the council passing the by-law appears best fitted to ensure the publicity thereof.

(8) A shop in which trades of two or more classes are carried on shall be closed for the purpose of all such trades during the hours in which it is by any such by-law required to be closed for the purpose of that one of such trades that is the principal trade carried on in such shop.

(9) A pharmaceutical chemist or druggist is not, nor is an occupier of or person employed in or about a shop in a village or township, liable to any penalty under any such by-law for supplying medicines, drugs or medical appliances after the hour appointed by the by-law for the closing of shops, but nothing in this subsection authorizes a person to keep open shop after that hour.

(10) Nothing in any such by-law renders the occupier of a premises liable to any penalty for supplying an article to a person lodging in such premises, or for supplying an article required for immediate use by reason of an emergency arising from sickness, ailment or death, or for supplying or selling an article to a person for use on or in or about or with respect to a steamboat or sailing vessel that at the time of such supplying or selling is either in or in the immediate neighbourhood of the municipality in which the premises are situate, or for use by or with respect to a person employed or engaged on or being a passenger on or by any such steamboat or sailing vessel, but nothing in this subsection authorizes a person to keep open shop after the hour appointed by such by-law for the closing of shops.

(11) A by-law passed by the council of a township for the closing of all or any class or classes of

shops may, as to any or all of its terms and provisions, differ from any other by-law passed by the same council for the closing of all or any class or classes of shops in any other designated part of the same township.

(12) Where an offence for which the occupier of a shop is liable under any such by-law to a penalty has in fact been committed by some agent or servant of the occupier, such agent or servant is liable to the same penalty as if he were the occupier.

(13) Where the occupier of a shop is charged with an offence against any such by-law, he is entitled, upon information duly laid by him, to have any other person whom he alleges to be the actual offender brought before a magistrate at the time appointed for hearing the charge, and, if, after the commission of the offence has been proved, the occupier proves to the satisfaction of the magistrate that he used due diligence to enforce the execution of the provisions of the by-law and that such other person committed the offence without his knowledge, consent or connivance, such other person may be summarily convicted of such offence and is liable to the same penalty or punishment as if he were the occupier, and the occupier is exempt from any penalty.

(14) A council may amend or repeal any by-law, except a by-law relating to retail gasoline service stations passed on the application of not less than three-quarters in number of the occupiers of such service stations, passed under any predecessor of this section, whether or not such by-law was required to be passed upon the application of any number of occupiers of shops in the municipality.

(15) If at any time it is made to appear to the satisfaction of the council that more than one-third in number of the occupiers of retail gasoline service stations to which a by-law passed upon the application of not less than three-quarters in number of the occupiers of such service stations relates are opposed to the continuance of the by-law, the council may repeal it, or may repeal it in so far as it affects such retail gasoline service stations.

SECTION 379b. In addition to any matter authorized by section 379a, any by-law thereunder applicable to retail gasoline service stations, gasoline pumps and outlets in the retail gasoline service industry as defined in The Industrial Standards Act may,

- (a) provide that the by-law shall apply only in the part or parts of the municipality designated in the by-law;

- (b) require that during the whole or any part or parts of the year such retail gasoline service stations, gasoline pumps and outlets be closed and remain closed at and during any time or hours between 6 o'clock in the afternoon of any day and 7 o'clock in the forenoon of the next following day and between 6 o'clock in the afternoon of Saturday and 7 o'clock in the forenoon of the next following Monday; and
- (c) provide for the issuing of permits authorizing the retail gasoline service station, gasoline pump or outlet for which it is issued to be and remain open, notwithstanding the by-law, during the part or parts of the day or days specified in the permit.

BRIEF OF POLICE ASSOCIATION OF ONTARIO

TO SELECT COMMITTEE STUDYING MUNICIPAL LAW

RE:- Sec 27(1) The Police Act of Ontario
R.S.O. 1960 - Chap. 298

The Police Association of Ontario being aware that this committee has received a recommendation that the rank of Inspector be removed from the bargaining provisions of the Police Act, wishes to submit opposition to any such contemplated action.

Under the existing legislation, the bargaining unit (usually an "Association" of police officers) with the approval of 50% of the members of the force, are charged with the responsibility of negotiating and maintaining a reasonable and fair standard of wages and working conditions for the members of the force. The same legislation prohibits members of the force from affiliating with trade unions and it is to be drawn to the committee members' attention that the bargaining procedure for police is indeed more conservative and restrictive than those which are common in the labour fields. The P.A.O. is now, and has ever been, content with this moderating procedure of employee/employer bargaining; however, the suggestion that the removal of any members from the sphere of this now accepted basic right, arouses our very genuine and sincere opposition. As succinctly as possible we list our reasons for this stand, having already received assurances from your Chairman that we will be invited to appear and explain, if this is deemed necessary.

LACK OF STANDARDIZED RANKS:

For the edification of the Committee we point out that there is no standardization of the ranks in a municipal police force, neither by name, qualifications, nor assigned responsibilities. Neither is there any restriction on the number of appointments permitted each department. In effect, the sergeant on one department may well be performing the identical duties of an inspector, lieutenant, or deputy chief on some other department. The Committee therefore, in dealing with the singular police rank of Inspector is handling a miscellaneous and ambiguous number which has neither by statute nor common practice any established identity.

We would further point out that as the bargaining unit is "robbed" of its strength by this invasion of rank restriction, there would be nothing to hinder the administration of some departments from seriously jeopardizing the 50% standing requirement of some of these units, by the wholesale appointment of such restricted ranks. A five-man police force consisting of a chief constable, deputy chief, inspector and two constables would be without bargaining rights. As incredulous as this may seem, we hasten to point out the experiences of the past. When the Government, in its wisdom, decided to permit the passage of legislation removing the rank of deputy chief constable from the bargaining section of the Police Act, smaller

departments who previously had never seriously considered the rank, blossomed out with a "Deputy Chief". Smaller forces operating with a chief constable, sergeant and men, suddenly amended their establishments to a chief constable, deputy chief and other ranks. It is not our charge, at this time, that this was done to circumvent the bargaining rights of individuals or groups of individuals, but the timing of these appointments would certainly warrant this kind of suspicion.

RANK STATUS:


Since this question has been one which has been before The Honourable Attorney-General for a number of years - and one, incidentally, which has on each occasion been rejected - we have surveyed the inspector rank of all municipal departments. In no case have we discovered the rank bore any true "executive" substance. These men have neither the right to hire nor fire; they have no authority other than to recommend in establishing departmental policies and in essence, are but a link in the chain of responsibility.

INCUMBENT'S CONSIDERATION:

And what about the personnel involved in this request? Who knows best what is proper in dealing with this question, than the individuals involved? The Association in the past has been willing to allow this whole question to be resolved on this decision alone. We inform you now that it is the desire of the existing inspectors of municipal police forces to remain as they now are - members of the bargaining unit. A survey of these men indicates this to be so by a marked majority.

As a consequence, the Police Association of Ontario respectfully submits that the removal of any further ranks from bargaining provisions would be a grievous injustice.

All of which is submitted with respect.


President,
The Police Association of Ontario.

Sept. 14, 1961.





DEPARTMENT OF THE ATTORNEY-GENERAL
MEMORANDUM

TO Hollis E. Beckett, Esq., M.P.P. FROM W. C. Bowman
Chairman, the Select Committee Director of Public Prosecutions.
On The Municipal Act and Related Acts
Room 377, Parliament Buildings,
RE September 26, 1961.

Mr. Nicol, the Executive Assistant to the Attorney General, has handed me Mrs. Rowan's request for a memorandum dealing with the question of what members of a police force ought to be exempted from the collective bargaining provisions of the Police Act.

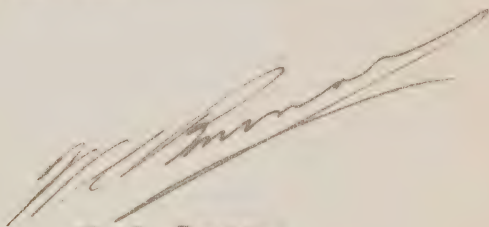
Under the Act as it now stands the members of a police force have the right to bargain collectively with the local police authority, i.e., the Municipal Council or the Board of Commissioners of Police in connection with remuneration, pensions, sick leave credit gratuities and working conditions of the members of the force with the exception of the chief constable and the deputy chief constable.

When the collective bargaining provisions were first enacted in 1947 neither the chief constable nor the deputy chief constable were excepted. The chief constable was excepted in 1949 and the deputy chief constable was excepted in 1956.

I think it is safe to say that for years there has been steady pressure from the local police authorities and from the Chief Constables' Association to have all those holding the rank of inspector and above excepted along with the chief constable and the deputy chief constable. The basic reason advanced is that they are essentially part of management and ought not to be dependent in any way upon rank and file for improving their remuneration or conditions of service. It was pointed out that this created administrative problems and was prone to interfere with discipline.

On the other hand the Police Association of Ontario which represents all ranks with the exception of the chief and deputy chief has firmly resisted any such change. The position of the Association is that if the inspectors and higher ranks are all taken out of the bargaining provisions it will weaken that Association and the local Associations within the individual police forces and result in less efficient law enforcement generally throughout the Province.

This is of course a very broad picture of the situation and if there is anything further that you feel I might add please let me know.

A handwritten signature in dark ink, appearing to read 'W. C. Bowman', with a long, sweeping horizontal stroke extending to the right.

WCB:a

W. C. Bowman.

PROTECTION OF POLICE OFFICERS

AS A RESULT OF

AMALGAMATION OR ANNEXATION

Honourable Sirs:

The reason the members of the Police Association of Ontario are concerned about sub-section (b) of Section 18 of the Police Act of Ontario and Ontario Regulations 174/51, 1961 edition, is that the wording used in this section, which was basically inserted in the Regulations to cover the one year probation period whereby an undesirable probationer could be dismissed from a police force, can now be used in a way for which it never was intended. It is this problem which we, of the Association now place before you, that a constable may be discharged from a force, formed through amalgamation or annexation, regardless of past service record and without first receiving a charge or a hearing, within first year on force.

AS AN EXAMPLE: Let us take the case of a man who holds the rank of a first class constable with police force (a). It is decided by the Municipal Board that certain municipalities are to be amalgamated on the first day of January 1963. ✓

This means that two police forces are to become one on the date that I have used, therefore on December 31st, 1962, the two municipalities are no longer in existence. This, therefore, means that police force (a) is defunct along with police force (b).

As was the case in ST. CATHARINES, the Police Commission may follow the advice of the Attorney General and insist that each member of the former (a) and (b) police forces must sign an application for employment. If the first class constable is

hired on the new police force which I shall call police force (c), he begins his employment on January 1st, 1963.

As you can see, the section in question does not give this man very much in the way of security if the council or commission as outlined in Section 18, Sub-section (b) wish to terminate this constable's service. It is also to be noted that there is only the term of constable used in sub-section (b). This may mean that the section could not be used in the case of a Chief Constable or other police officer, but who can say what the true meaning of this name of constable really means.✓

Another item quite evident is that when a constable or other police officer builds up some years of service with forces (a) and (b), he loses his right to have these past years of service credited to his record when he joins force (c). There is nothing in the regulations that compel the commission or committee of the new force (c) to record any constable's past service because he is hired on the date that the new force (c) is born.

As you can see, gentlemen, there would be a monetary loss if this commission or committee decided that for financial reasons, they would hire all first class constables from forces (a) and (b) as third class constables, and to disregard all past service because they do not want to pay any service pay.

It is granted that some of these things may never happen, but we of the Association feel that if this group is not protected then all other ranks would soon be adversely affected. Therefore, Honourable Sirs, we ask that you and your Committee enact legislation that would make it compulsory for a commission or

committee, such as on force (c) to credit the members of say forces (a) and (b) with the full amount of past years service regardless of whether remunerated credits are granted or not.

Referring to items (B) and (C) in the matter of pensions, insurance, hospitalization and medical plans and sick leave gratuities, we would like to bring to your attention, gentlemen, that such restrictions do not exist in any other field of wage negotiations.

THE HIGHWAY TRAFFIC ACT

We feel, as did a Provincial Magistrate, in dismissing a careless driving charge against a police officer in Listowel, Ontario, that normal rights of other drivers are superseded by those of a policeman when he is attempting to make an arrest. In this instance, a constable was charged after his police cruiser had crashed into another vehicle, while the officer was pursuing a speeding car at 60 miles an hour. Evidence was the the two vehicles collided when the officer was overtaking a fourth vehicle on the crest of a hill.

All of which is respectfully submitted,

President

Raymond BARRETT

2nd Vice Pres.

Donald STANWARD

Treasurer

Dennis LATTEN

GORDON CROCOCK,
First Vice President,
Chairman of Legislation,
Police Association of Ontario,
7 Barbara Street,
Brantford, Ontario.

W. E. ...

BRIEF
TO THE
SELECT COMMITTEE OF
THE ONTARIO LEGISLATURE
STUDYING
THE MUNICIPAL ACT OF ONTARIO

from the
POLICE ASSOCIATION OF ONTARIO

John 12/62

Hollis E. Beckett Esq., Q.C., M.P.P.,
Chairman,
Select Committee on Municipal Act,
Parliament Buildings,
Toronto 2, Ontario.

Honourable Sir:

The Police Association of Ontario wishes to submit its brief for 1962, and in so doing, it wishes to note to the members of the Select Committee studying Municipal Law that the Association represents some 105 Member Police Associations throughout our Province, numbering some eight thousand individual members.

The Association would also wish to record its appreciation for the assistance and consideration it has received from the Office of the Attorney-General, and the officers of his department, and also, repledges its continued loyalty and its awareness of its responsibility for the protection of the public in providing a police service of the highest quality and integrity. Bearing in mind that your Committee came into existence during the past year, we look forward to an infinite continuation of happy accord and resolute objectivity with your office and that of our Association.

We are grateful, Honourable Sir, for this opportunity to make certain submissions respecting the Municipal Act and the Highway Traffic Act.

The contents of this Brief is the result of extensive research and study by this Association, and is respectfully rendered herewith only because,

in our opinion, rectifiable action by the government is needed.

We have divided the contents of this brief into two parts:

- PART I - deals with the Municipal Act
- PART II - deals with the Highway Traffic Act

PART I - THE MUNICIPAL ACT

R.S.O. 1960, Chapter 249

(A) PROTECTION FOR THE POLICE OFFICERS AS A RESULT OF ANNEXATION OR AMALGAMATION OF MUNICIPALITIES

WHEREAS in the administration of municipal affairs, applications have been made from time to time for the annexation of one municipality to another or for the amalgamation of two or more municipalities pursuant to the provisions of the Municipal Act, R.S.O. 1960, Chapter 249,

AND WHEREAS the effect of such amalgamations and annexations is to make certain changes in the remuneration, working conditions and other terms of employment of employees of the municipalities affected,

AND WHEREAS the members of the Police Forces of the municipalities affected have expressed concern about the effect of such amalgamations and annexations upon their conditions of employment, seniority, rank, opportunities for

advancement and other matters peculiar to the administration of Police Forces; make representation at this time for the purpose of securing, by way of legislation or otherwise, the setting up of a committee of referees to deal with any matters in dispute which may arise out of any such amalgamation or annexation;

- (B) SICK LEAVE CREDIT GRATUITIES - R.S.O. 1960, Chapter 249, Section 377, paragraph 60 (page 688, Vol. 3) included.

It has been proposed that this section be amended to read:

60. For the establishing of a sick leave credit plan, gratuities for employees or any class thereof provided that on the termination of his employment he shall be entitled to an amount equal to his salary, wages or other remuneration of the full number of days standing to his credit at a rate received by him immediately prior to termination of employment;

- (C) HOSPITALIZATION AND PENSIONS - R.S.O. 1960, Chapter 249, Section 377, paragraphs 61 and 62. It has been proposed that both these paragraphs be amended to incorporate sections which would abolish the restrictive measure presently contained therein.

OBSERVATION

Regarding item (A) it is this problem which the Association now places before your Committee, that a constable may be discharged from a force, formed through amalgamation or annexation, regardless of past service record, and without first receiving a charge or a hearing, within first year on force.

As was the case in St. Catharines, the Police Commission may follow the advice of the Attorney-General and insist that each member of the former police forces must sign an application for employment. If the first class constable is hired on the new force, he begins his employment as a probationary constable.

It is therefore suggested, with due respect, that sub-section (B) of Section 18 of the Regulations under the Police Act be amended to read:

(B) to dispense with the services of any constable within one year of his appointment to the force, but this section shall not, however, affect any constable of a force involved in amalgamation or annexation, provided such constable had served at least one year with any force so involved prior to such amalgamation or annexation.

Regarding items (B) and (C) we of the Association are interested in paragraphs 60, 61, and 62 of Section 377 which can be found on pages 189 and 190 of the Municipal Act.

One of the purposes in mind of the Association is that the Municipal Act places on Section 27(1) of the Police Act of Ontario, limitations, whereby when the majority of full time members of a police force request in writing to negotiate on matters of pension, insurance, hospitalization and medical plans, and sick leave gratuities, they are restricted from receiving greater benefits, irrespective of how the Municipality may feel, because of legislation under the Municipal Act in respect to these matters.

PART II - THE HIGHWAY TRAFFIC ACT

R. S. O. 1960

PROTECTION FOR POLICE OFFICERS IN CASES OF EMERGENCY OR DURING THE ENFORCEMENT OF THEIR DUTIES

With reference to police officers enforcing the sections of the Highway Traffic Act and other Dominion and Provincial Statutes, we of the Association, would like to point out that there is no section in the Highway Traffic Act of Ontario entitling a police officer to exceed the statutory speed limit or to go through a stop sign or to commit any other traffic

violation. It has been held in the Province of Ontario, that under the Highway Traffic Act there is no exception made in the operation of a motor vehicle by police in the performance of their duties and that the provisions of the Act apply to police as well as to other members of the public making use of the highway.

During the past year, charges of careless driving under the Highway Traffic Act of Ontario were laid against officers performing their duties in Kingston, Listowel and Goderich, which prompted the Association to draw up a proposed amendment to the Highway Traffic Act of Ontario to be known as Section 59(8)(a) and Section 59(8)(b).

TO READ AS FOLLOWS:

59(8)(a). The speed limits as prescribed under Section 59 and rules of the road as prescribed under Part VIII, Sections 63-100 under this Act or Regulations or any By-Law passed under this Act, do not apply to motor vehicles being operated by police officers or other persons authorized to enforce this Act or other Dominion or Provincial statutes, while they are engaged in the performance of enforcing the sections of this Act, or while proceeding to a fire or other emergency.

59(8)(b). However, the above sub-section,
59(8)(a) is not to be construed as
eliminating the civil obligation of a
police officer or other persons authorized
to enforce this Act or other Dominion or
Provincial statutes in his regard for
other persons using the highways and
their safety.

All of which is respectfully suggested,

Raymond B. Bennett
PRESIDENT,

January 15, 1962.

Police Association of Ontario.

W. A. C.

53

Submitted by
THE PROVINCIAL FEDERATION OF
ONTARIO PROFESSIONAL FIRE FIGHTERS
for consideration by

The Select Committee of
The Ontario Provincial Government:

GENTLEMEN:

The Provincial Federation of Ontario Fire Fighters was organized on the 25th August, 1920, in the City of Toronto, comprised of the Fire Department Locals of the municipalities of Toronto, Ottawa, Hamilton, London and Whitby, representing approximately 800 full-time fire fighters in the Province of Ontario. Although there was Provincial legislation governing the full-time fire fighters in the year 1920, the Fire Departments Act did not become a statute until the year 1927. We, as full-time fire fighters, have been operating under this Act since that time and have seen many amendments made to the Act during its 35 years in existence and, no doubt, will see many more in the years to come.

From this beginning in the year 1920, our organization has expanded considerably to the point where today, this Federation is comprised of 68 Fire Department Locals with a membership of approximately 4800 full-time fire fighters. 60 of our affiliated locals are Municipal Fire Department Locals, 7 are Federal Fire Department Locals, that is, civilian personnel employed as full-time fire fighters by the Federal Government in Army and Air Force bases in the Province of Ontario, such as Camp Borden, Camp Petawawa, Clinton, etc. Our one other affiliated Local is at the Atomic Energy Plant in Chalk River, Ontario. The latter 8 of our affiliated Locals, whose members are employees of the Federal Government, do not, of course, come under the provisions of the Fire Departments Act of the Province of Ontario and represent approximately 100 full-time fire fighters. There are, therefore, approximately 4700 full-time fire fighters in 60 municipalities throughout Ontario affiliated with this Federation and affected by the Fire Departments Act of the Province of Ontario. Incidentally, the word

"Professional" was added to the name of this organization in the year 1955 and, as a result, our organization is now known as "The Provincial Federation of Ontario Professional Fire Fighters".

We, the representatives of this Federation, welcome this opportunity to appear before this Select Committee of the Ontario Government to express our views in regards to the proposal, by various groups, that the Fire Departments Act, Part I, Section 5, sub-section (1) be amended to provide for the exclusion of the Deputy Chief of the Fire Department from the bargaining unit in addition to the Chief himself. At the present time Part I, Section 5, sub-section (1) of the Fire Departments Act reads as follows:

Bargaining

"When requested in writing by a majority of the full-time fire fighters, the council of the municipality shall within 120 days after receipt of the request commence to bargain in good faith with a bargaining committee of the full-time fire fighters for the purpose of defining, determining and providing for remuneration, pensions or working conditions of the full-time fire fighters other than the Chief of the Fire Department."

This Federation, by convention action, is most vigorously opposed to such a proposal because, up until the present time, we have yet to hear what we consider to be a valid reason for this action to be taken. It has been suggested that due to the fact that in the absence of the Chief and the Deputy Chief assumes the duties of the Chief great embarrassment has resulted. With respect, we submit that we know of no case where this has actually occurred. We are aware that this type of submission was made by a municipality, representatives of which, however, neglected to point out that although the Chief was absent due to ill health and the Deputy Chief assumed the duties, that during the period of time the Deputy was Acting Chief, he too was absent for a short period and the senior Captain on the Fire

Department was actually running the department. We submit that it is no more embarrassing for a Deputy Chief than for a Captain in this regard and for that reason fail to understand the logic of such reasoning.

At the present time, the various groups, to which we refer, request only the exclusion of the Deputy Chief from the bargaining unit in addition to the Chief of the Fire Department. If they are successful in this endeavour we strongly suspect that the next move will be an attempt to have the Fire Departments Act amended further to provide for the exclusion of other ranks. In our opinion this suspicion is well founded by reason of the fact that at the present time proposals are being made to the Provincial Government to have the Police Act amended to provide for the exclusion from the bargaining unit of all ranks of Inspector and above. The Police Act, of course, already excludes the Deputy Chief from the bargaining unit, in fact this action was taken some nine years ago. We submit, with respect, that because the Police Act excludes the Deputy Chief is not sufficient reason for the exclusion of the Deputy Chief from the Fire Departments Act. To use an old expression "two wrongs do not make a right". There is a strong possibility that had the Ontario Police Association opposed the removal of the Deputy Chief some nine years ago from the Police Act the Deputy Chief would still be included under the provisions of that Act. The reason why they did not oppose such a proposition at that time was because there very few Police Departments in the Province of Ontario nine years ago that had a Deputy Chief and the Police Association considered this to be only a minor amendment. Much to their regret, however, immediately the amendment was made to the Police Act, they found that only a very few Police Departments in the Province did not have a Deputy Chief. There is little doubt that could the Police Association have foreseen what was going to occur they would have been strongly opposed to such a proposal. One cannot, however,

turn the calendar back. Fortunately, it is possible to "go to school" on the experience of others. Of the 60 municipal fire department locals affiliated with this Federation, 13 of them at the present time do not have a Deputy Chief. There is no doubt in our minds that if the Provincial Government is receptive to such a proposal to have the Fire Departments Act amended to exclude the Deputy Chiefs from the bargaining units and the statute is amended accordingly, there are going to be 13 more Deputy Chiefs of fire departments in the future than there are at the present time. This does not mean that 13 individuals are going to receive an increase in salary nor does it mean that their duties will be any different than they are now. It means, simply, that only their classification will be changed for the obvious reason of having them excluded from the bargaining unit.

By reason of the proposed amendment to the Police Act we cannot help but assume that the real intent is the gradual decimation of our bargaining units. To put it simply, it will be our turn next. This endeavour we shall vigorously oppose until such time as a valid reason is given to support such a proposition. We repeat, up until the present time we have yet to hear a valid reason given.

As the future welfare of many, many, of our Deputy Chiefs is at stake in this proposed amendment to the Fire Departments Act, we believe that the views of the Deputy Chiefs themselves should be a factor to be considered. A survey conducted by the office of the Provincial Federation of Ontario Professional Fire Fighters in August, 1960, to get the views of the Deputy Chiefs on this important matter indicated that the vast majority desire to remain within the bargaining unit. If there was embarrassment, as claimed, surely this would be reflected in the views of the Deputy Chiefs. This, however, was not the case.

We respectfully request that the Select Committee of the Ontario Government take no action on the proposal that

the Fire Departments Act, Part I, Section 5, sub-section (1) be amended to provide for the exclusion of the Chief of the Fire Department and the Deputy Chief.

We appreciate, sincerely, the opportunity to appear before the Select Committee of the Provincial Government on this important matter and trust that the Committee will agree with our point of view.

All of which is respectfully submitted by,

R.S. Chambers,
Secretary,
Provincial Federation of
Ontario Professional Fire Fighters

BRIEF

Presented to

THE HONOURABLE

LESLIE M. FROST

PRIME MINISTER, PROVINCE OF ONTARIO

and

MEMBERS OF THE CABINET

by

THE PUBLIC SCHOOL TRUSTEES' ASSOCIATION

OF ONTARIO, INC.

* * *

1961

"The World Moves Forward on the Feet of Little Children"

The Honourable Leslie M. Frost, Q.C.,
Prime Minister, Province of Ontario,
and Members of the Cabinet.

Mr. Prime Minister and Gentlemen:

The purpose of this presentation is to set out the position of The Public School Trustees' Association of Ontario in regard to three matters of concern to both public school supporters and Roman Catholic separate school supporters in Ontario; viz. (1) allocation of provincial grants to public schools and to Roman Catholic separate schools; (2) the continuing obligation of property for debenture debt; (3) the legal basis for separate school support.

1. Allocation of Grants to Public Schools and to Roman Catholic Separate Schools

On this question, our position is that there should be a fair division of provincial support as between the two types of elementary schools. Admittedly, the division in the past years has not been entirely fair. We believe that this has been poor policy; favouritism usually produces dissension and discord. The time has come, in our opinion, when a fair and just basis for allocation of provincial funds to public schools and to Roman Catholic separate schools should be determined; we believe also, that it must be strictly adhered to in the future. Above all, the policy decided upon should be in complete accord with the Confederation Agreement. It is not our place to plead the cause of Roman Catholic separate schools, but on the other hand, we have no intention whatsoever of attempting to deprive them of even the least "right or privilege" which was guaranteed them by the British North America Act in 1867. Nor is it our intention, at present, to put forward any special pleas on behalf of the public schools, despite our right and our duty to do so. Our sole purpose is to bring the problem to your attention as clearly as we can, and then to lay before you the one solution that we firmly believe to be fair and just in accord with the terms of the British North America Act.

We would remind you, however, that primary responsibility for the provision of elementary education in this province was placed upon the public schools and their supporters more than a century ago, and further, that this fundamental position has not altered over the years. Separate schools are established in the first instance by those who remove themselves and their children from the general system of public schools; if they elect to return to the public school system, they and their children

must be accepted forthwith. For the public schools and their supporters there is no such choice; at any and at all times public schools must be prepared to provide an elementary school education for all the children of all the people. Accordingly, on behalf of the public school supporters who by law have been charged with this primary responsibility for elementary school education, we ask only for fair and just treatment, not for preferential treatment for public school supporters.

In concluding this introduction, we wish to point out that the limited information we have been able to secure indicates that it is imperative that the decision be made now. In our opinion, the recent changes in the school grant plans have produced an unreasonably favourable position for the Roman Catholic separate schools. This may not be the case for the province as a whole at this moment, (in fact, we think it probably is not), but it most certainly is the case in many of the urban centres, both large and small. If the present trend continues, the balance will be tilted so greatly in favour of Roman Catholic separate schools, for reasons which will become evident as we proceed, that dissatisfaction and discord will prevail throughout this province.

THE FINANCIAL POSITION

There are a number of fundamental facts about local financial resources, school costs, and provincial grants which call for understanding before the basic problem of allocation of provincial funds to public schools and to Roman Catholic separate schools can be approached with the hope of arriving at a satisfactory solution.

Boards, Schools, Teachers and Pupils

According to Table I of the 1959 Report of the Minister of Education, the basic breakdown as between public and separate schools, is as follows:

| Item | Public | Separate | Total | Separate % |
|------------------------------|---------|----------|-----------|------------|
| 1. Boards, operating schools | 2,853 | 707 | 3,560 | 19.9 |
| 2. Schools in operation | 5,829 | 1,303 | 7,132 | 18.2 |
| 3. Teachers (full-time) | 27,261 | 7,980 | 35,241 | 22.6 |
| 4. Pupils | | | | |
| (a) 1958-59 ADA | 709,233 | 233,298 | 942,531 | 24.7 |
| (b) Sept. 1959 Enrollment | 817,880 | 263,769 | 1,081,649 | 24.4 |

School Grants

Recent changes in amounts of school grants to public schools and separate schools are as follows:

| Year | Public | Separate | Total | Separate % |
|------|------------|------------|-------------|------------|
| 1948 | 18,823,524 | 3,178,073 | 22,001,597 | 14.4 |
| 1950 | 22,855,028 | 4,654,442 | 27,509,470 | 16.9 |
| 1951 | 25,234,450 | 5,488,935 | 30,723,385 | 17.9 |
| 1952 | 29,174,724 | 6,836,125 | 36,010,849 | 19.0 |
| 1953 | 31,175,745 | 7,460,444 | 38,636,189 | 19.3 |
| 1954 | 34,359,603 | 8,789,361 | 43,148,964 | 20.4 |
| 1955 | 39,128,084 | 10,548,900 | 49,676,984 | 21.2 |
| 1956 | 42,465,729 | 12,250,742 | 54,716,471 | 22.4 |
| 1957 | 52,573,637 | 15,089,164 | 67,662,801 | 22.3 |
| 1958 | 66,602,292 | 21,220,644 | 87,822,936 | 24.2 |
| 1959 | 74,265,417 | 26,000,466 | 100,265,883 | 25.9 |

The trend would appear to be significant.

Local Assessment

Although no data seem to be available yet for the new provincially equalized assessment, the following comparison is likely close enough to the true values. In any case, assessments, whether local or provincially equalized, would be directly comparable within each of the municipalities. Clearly, the disparity in local resources or ability to support schools is great; the separate school supporters seem to have the children but not a corresponding amount of local assessment. This is not always true of a minority group; in the Province of Quebec the situation seems to be reversed.

| Source | Public | Separate | Total | Separate % |
|---|---------------|-------------|---------------|------------|
| 1956 Annual Report of
Municipal Statistics | 6,634,147,149 | 646,437,763 | 7,280,584,912 | 8.9 |
| 1954 Report of the
Minister of Education | 5,533,687,636 | 729,446,736 | 6,262,133,372 | 11.6 |

The discrepancy of approximately one billion dollars in assessment for public schools will be noted; we suspect that this may be accounted for in large measure by the difference between local and equalized assessments in the Metro Toronto area.

The Report of the Minister of Education for 1954 also gives the figure of \$274,189 local assessment per classroom for public schools as compared with \$144,559 for separate schools. As a rough figure, making due allowance for discrepancies, errors, and so on, it seems reasonable to conclude that separate schools have, relatively speaking and on the average, about half the local financial resources of public schools (per pupil, per teacher, or per classroom in actual operation).

School Costs

It is not easy to obtain gross cost figures that are meaningful, since the totals given in the 1959 Minister's Report include capital expenditures, bank overdrafts, temporary loans, and balances on hand. Perhaps the following items for 1956 will be of some value. The footnotes explaining the items have been adopted from those given in the Minister's Report, and should explain the various quantities reasonably well.

| Item (1958) | Public | Separate | Total | Separate % |
|------------------------------------|-------------|------------|-------------|------------|
| Instruction | 110,606,282 | 19,397,306 | 130,003,588 | 14.9 |
| Other current operations (1) | 48,004,967 | 8,871,336 | 56,876,303 | 15.6 |
| Capital payments (2) | 16,215,764 | 6,336,836 | 22,552,600 | 28.1 |
| Capital outlays from current funds | 7,225,344 | 2,020,625 | 9,245,969 | 21.9 |
| Total Ordinary Expenditures | 182,052,357 | 36,626,103 | 218,678,460 | 16.7 |

- (1) Includes instructional supplies, administration, plant operation, plant maintenance, auxiliary services, tuition fees paid to other boards, and transportation.
- (2) Comprises principal and interest paid or set aside in 1956 by the issuing authority.

For most items, separate school costs are clearly much lower.

Salaries of Teachers and Principals

In the immediately preceding section, the table shows that the costs of instruction alone constitute over 60% of total ordinary expenditures for public schools and about 52% for separate schools.

Obviously, salary levels must be quite different in the two types of schools. The relevant salary distributions for September, 1957, taken from Tables 42 and 55 of the 1957 Report of the Minister of Education, are shown below. We have given only the data for full-time teachers and principals, excluding itinerant full-time teachers also:

| Salary Range | NUMBER OF FULL-TIME TEACHERS AND PRINCIPALS | |
|------------------|---|----------|
| | Public | Separate |
| \$8,251 and over | 718 | — |
| 7,851 - 8,250 | 242 | — |
| 7,450 - 7,850 | 414 | — |
| 7,051 - 7,450 | 317 | — |
| 6,551 - 7,050 | 510 | 1 |
| 6,251 - 6,650 | 1018 | 2 |
| 5,851 - 6,250 | 1654 | 4 |
| 5,451 - 5,850 | 1577 | 17 |
| 5,051 - 5,450 | 1523 | 66 |
| 4,650 - 5,050 | 2065 | 213 |
| 4,251 - 4,650 | 2263 | 390 |
| 3,851 - 4,250 | 3312 | 653 |
| 3,451 - 3,850 | 3930 | 950 |
| 3,051 - 3,450 | 4880 | 1308 |
| 2,651 - 3,050 | 2371 | 1777 |
| Under 2,651 | 467 | 2599 |
| Total | 27261 | 7980 |
| Median Salary | \$4,090 | \$2,964 |
| Average Salary | \$4,512 | \$3,140 |

The differences in salary costs are substantial. On the average, public school boards must pay \$1,400 more per teacher to staff their schools. In particular areas where the separate school staff may be made up predominantly of religious teachers, the difference in salary costs will be much greater.

In summary, we wish to draw attention to the following salient features of the financial situation:

- (1) Separate schools costs are much lower than those in public schools. For the most part, this difference arises because of the salary differential between the two systems. Other current operation costs, however, are also lower in separate schools than in public schools, proportionately.
- (2) Local financial resources of separate school boards are severely restricted in comparison with those available for the support of public schools. On a per classroom or per pupil basis, the situation is, roughly, that separate schools have fifty cents available in local taxes for every dollar available in local taxes for public schools.

- (3) For the calendar year 1958, public schools received in provincial grants approximately thirty-six cents of every dollar of ordinary expenditure; during the same year, separate schools received in provincial grants approximately fifty-eight cents of every dollar of ordinary expenditure.
- (4) During the past ten years, grants to Roman Catholic separate schools have steadily increased, both in actual amount and proportionately as compared with public schools. According to the 1959 Minister's Report, grants paid to separate school boards in 1959 amounted to \$98.57 per pupil enrolled in September, 1959, whereas those paid to public school boards amounted to only \$90.80 per pupil. Thus separate school supporters are already receiving substantially more than their share of provincial assistance.

THE SEPARATE SCHOOL GRANTS PROBLEM

The root of this perennial problem lies in the fact that in any municipality where public and separate schools exist, they are in a sense competitors for both local and provincial funds. In some areas, at present as well as in the past, this "competition" has led to bitter rivalry and hard feelings; this has been particularly acute wherever the formation of a separate school corporation without due warning has suddenly left the public school supporters with greatly depleted financial resources, substantially reduced enrollment, and "holding the bag" with respect to a debenture issue for a new school which, under the altered circumstances, may not be required. Under these extreme conditions, even the newly-born separate school supporters may be irked to the point of smouldering revolt when they discover they are legally responsible for payment of the public school debentures as well as their own, at least for the immediate future. Certainly, the supporters of public schools feel that tax dollars and provincial grant dollars that go to the separate schools in their municipality have been taken away from them. We have been informed that separate school supporters felt the same way about tax dollars and provincial grant dollars that go to the local public schools, and even more so about tax dollars secured from those Roman Catholics who quite properly continue to exercise their fundamental right and privilege to support public schools.

Unless the British North America Act is amended, nothing can be done to remedy the legal position which gives rise to these conditions. We understand that the Roman Catholic Church views separate schools as an integral part of its own body and the support of them as an evidence of true faith. It seems logical to conclude, therefore, that separate schools will be with us for some time to come, probably as long as public schools, and that the two types of schools had better learn to live together amicably in mutual understanding and tolerance. The most powerful, and certainly the most essential factor, which would operate to secure this happy end is the

assurance, by action as well as by words, that absolute fairness will be the rule followed in the allocation of provincial aid through school grants to both types. Petty pilfering of local tax dollars through improper assignment of assessment to the support of separate schools should cease, and the sections of the Assessment Act which permit — even encourage — such malpractices should be repealed at once. At the provincial level, likewise, it is absolutely essential that the grant plans, both in design and administration, favour neither party at the expense of the other. Coexistence is possible, and living conditions may even be pleasant and agreeable, but only if the financial treatment afforded locally and provincially is fair and just, and favouritism is shown to none.

In reviewing this problem of the proper allocation of provincial grants as between public and separate schools, it becomes obvious that no particular division has ever been acceptable to both parties. Pressure for a change seems always to have been brought to bear by one group or the other, and sometimes — perhaps mistakenly — by both. Not even the wisdom of Solomon could produce a solution that would please all public and separate school supporters. The only remaining possibility is a compromise solution, and this would be acceptable only if the terms were deemed to be fair and just, or at least a reasonable approximation to fairness and justice.

In the light of the financial facts of the situation as set forth earlier, we wish to consider two extreme plans and the compromise, which we propose should be adopted as satisfying, within reasonable limits, the demands of both groups.

- (a) At one extreme, consider the situation in the urban centres under the original Drew grant plan, where public and separate schools received the same percentage of "approved cost" in grants. The result was inevitable and, with a knowledge of the facts we have presented, could have been foretold with perfect accuracy. Within a few years the urban separate schools found themselves operating under conditions of extremely limited financial resources, despite local tax rates that in a few instances were nearly double those for public schools in the same municipality. The change introduced by the government in 1950, the addition of a flat per pupil grant of \$16.00, reduced the burden for separate school supporters somewhat but did not solve the problem. It is surely obvious from the figures we have given earlier, showing the percentage the separate school grant constituted of the total grant for elementary schools, that each year except in 1957, the government has given steadily increased assistance to separate schools.

We submit that the treatment afforded by the original Drew grant plan was not fair to separate schools and that the education of the children may have suffered. We do know that salaries of lay teachers in

these schools are far too low to provide a reasonable standard of living, and that little, if any, enrichment through special equipment or courses is possible in separate schools. We are opposed to any policy or practice that inflicts either immediate or delayed penalties and hardships on children of any faith.

- (b) At the other extreme, consider the situation in the rural areas of this province under the original Drew grant plan and under every variation of it since that time, including the grant plan the government introduced this past year. The principle which underlies the rural part of the Drew grant plan, and underlying all parts of the present grant plan, seems to be that of equalizing the local tax rates through the provision of higher provincial grants to poorer boards ("richer" or "poorer" being determined on the basis of the provincially equalized assessment per classroom). Since the assessment per classroom is, on the average, about twice as great for public schools, it is immediately apparent that in each municipality the separate schools will now get much higher percentage grants on approved costs and much larger per pupil grants. In other words, the provincial government will make up the difference that exists in local resources as between the public schools and separate schools. There can be no quarrel with this principle when it is applied among the schools within each system, public and separate, but we submit that it is grossly unfair and unjust, to apply it indiscriminately to all schools, public and separate alike.

The difficulty is that two principles, both basic, conflict at this point. One of these is the principle of equalization which underlies the present grant plan, and with which all educationists are in agreement although there is no legal basis for it in the statutes or regulations that were in effect at the time of Confederation. While we believe this principle is essentially sound, and we support it, we do feel very strongly that in applying it due attention must be paid to the second principle, which was in effect at the time of Confederation and which was expressed in the statutes under which the schools were operated at that time.

The second principle to which we refer, and which we believe in the matter of allocation of school grants as between public schools and separate schools must take precedence, is that public school supporters must not be required to provide financial support for separate schools, either locally or provincially. There are two classes of taxpayers, public school supporters and separate school supporters, and they provide not only the local revenue for the support of schools but the provincial revenue also. It is our contention that nothing in any school act or regulation, including the grant regulations, should require a public school supporter to contribute, either locally or provincially and either directly or indirectly toward the support of separate schools. Of course, no one knows or ever

could determine the exact amount each class of taxpayer pays into the provincial treasury, but it is highly unlikely that separate school supporters (for whom it is known that, locally, their property does not equal in value, on a per capita basis, that of public school supporters) will contribute more than their per capita proportion, and are very likely to contribute less. Once the point is reached in school grants where the separate schools receive more on a per pupil basis than do public schools, it is surely obvious that the additional money must come from the taxes paid by public school supporters.

This second principle was recognized in the Ford Motor case of 1941, and indeed formed the basis of the judgment delivered by Lord Atkin. His Lordship went beyond it to enunciate a supplementary principle namely, that "supporters of separate schools must establish their right to the statutory privilege" of excepting their assessment from the support of public schools. The Separate Schools Act of 1863, which was confirmed by the agreement made at Confederation in 1867, was quite explicit on this point, and states the position much more clearly than does the corresponding section of the present Separate Schools Act. The relevant section of the 1863 Separate Schools Act can be found verbatim on pages 484 to 491 of The Report of The Royal Commission. This section is followed by No. XXI, which comes immediately after the well known section XX which set out the division of grants as between public and separate schools in effect at that time. Attention is drawn in particular to the introductory clause of the section, which clearly refers to all other sections of the Act, including that which established the division of school grants. (See page 489 - Hope Report.)

XX. "Every Separate School shall be entitled to a share in the fund annually granted by the Legislature of this province for the support of Common Schools, and shall be entitled also to a share in all other public grants, investments and allotments for Common School purposes now made or hereafter to be made by the Province or the Municipal authorities, according to the average number of pupils attending such School during the twelve next preceding months or during the number of months which may have elapsed from the establishment of a new Separate School, as compared with the whole average number of pupils attending Schools in the same City, Town, Village, or Township.

XXI. Nothing herein contained shall entitle any such Separate School within any City, Town, Incorporated Village or Township, to any part or portion of school moneys arising or accruing from local assessment for Common School purposes within the City, Town, Village, or Township, or the County or Union of Counties within the City, Town, Village or Township is situate."

It is a matter of simple arithmetic to demonstrate that if a disproportionate share of the total provincial grant is given to separate schools, the extra amount must have been taken from what would otherwise have been paid towards the support of public schools. The net effect is a double levy on the public school supporters: **provincially**, for the extra amount voted for separate schools; **locally**, to make up the difference between the grant received and that which would have been received by public schools. We contend that the payment of additional provincial grants in this way is unconstitutional, being not in accord with the statutory provisions, in effect at Confederation, and that a strong case could be prepared to have the grant regulations declared ultra vires of the province. Further from the point of view of administrative fairness, even those who may deny the validity of our interpretation of the constitutional position will be forced to admit that the action of the government is indefensible. Favouritism is very definitely shown, and at the expense — literally as well as figuratively — of those discriminated against, namely, the public school supporters.

- (c) We have sought long and earnestly for a solution to this problem of the allocation of provincial grants, in total, to public and separate schools. A reading of the relevant sections of the Hope Commission¹ majority report indicates that they, too, encountered great difficulty in arriving at a solution to the same problem. We are convinced that the principle of equalization must always govern the distribution of general legislative grants to school boards throughout the province, and that the government is on sound ground in placing the whole plan on this foundation and deserves the highest commendation for their action in this regard. We are equally convinced, however, that this principle cannot be applied indiscriminately to public and separate schools but only to the schools within each group after a primary division of the total grant has been made. The principle of complete separation of support, at least within reasonable limits from an administrative point of view, must take precedence and govern all our actions in regard to school financial support, both locally and provincially. Any government that ignores or overlooks this principle is, in our opinion, open to severe criticism of any action that contravenes it. While we hope we are in error, our evaluation of the 1958 grant scheme seems to reveal a complete lack of attention to and awareness of this second principle. We will never accept any grant proposal which either directly or indirectly requires public school supporters to contribute towards the support of separate schools. We contend that, in giving a disproportionate share of the total provincial grant to separate schools, the government does in effect require public school ratepayers to support separate schools in part. Any such action, is, of course, grossly unfair and unjust, and utterly wrong both constitutionally and politically.

¹) See HOPE REPORT: Page 526, Para. 72 - 85; pp. 727 - 31, Para. 50 - 54.

We suggest that a primary division should be made of the total amount voted by the Legislature for the support of elementary schools, one part for distribution to public schools and the other for distribution to separate schools (on an equalization basis in each case). We suggest, further, that this division be made on the basis of the average daily attendance of the preceding calendar year. The basis used at the time of Confederation, which was a division locally according to average daily attendance, would not only be almost impossible to apply today (school and municipal boundaries are not necessarily conterminous), but would also very largely defeat any attempt to equalize properly within each system. Since the same principle applies and approximately the same total amount of grant would be given to each type of school in both cases, the proposal seems to us to be sound on constitutional grounds and to be in accord with both of the principles we have expounded.

We are, of course, fully aware that our proposals are in agreement with those submitted to the Hope Commission by the Inter-Church Committee on Protestant-Roman Catholic Relations. They are also in agreement, in principle, with the recommendations on this matter contained in the majority report of the Hope Commission, but we know ours are somewhat more generous to separate schools. We cite these other proposals as supporting evidence of the soundness and fairness of our own.

2. Conflicting Sections in the School Acts Respecting the Continuing Obligation of Property to be Taxed for Debenture Debt

For many decades the school laws have been interpreted in such a way that property standing as security for the borrowing of money to finance the erection of a public school continues to be liable for public school tax rates for the repayment of such borrowed money together with interest charges until such time as the debt is discharged even if ownership of the property passes to a **separate school supporter**. Roman Catholic separate school supporters have never been satisfied with this interpretation and in the case *Crowland vs. Slevar* the Supreme Court of Canada has supported the judgment of Mr. Justice Porter finding against the plaintiff the Township of Crowland. The effect of this judgment seems to be the freeing of the property of a Roman Catholic separate school supporter from **all** public school rates except those imposed before the formation of the separate school. This means that if there were no separate school in a predominantly Roman Catholic community, the board could borrow, say, \$80,000 for the erection of a four-room school with the property of all inhabitants of the school division as security. The next year a separate school could be formed, and all but a handful of the former public school supporters become separate school supporters. Under the Supreme Court decision, the property of these new separate school sup-

porters would be liable to pay all public school rates including a rate for debt service imposed **before** the establishment of the separate school, but since, the judgment asserts, all rates are **imposed annually**, the separate school supporters would not be liable for any public school rates **imposed** after the formation of the separate school. The wording of the relevant section of the Separate Schools Act (S. 56) certainly lends itself to this interpretation but we hope to show (a) that such a provision works great hardship on the remaining public school supporters and (b) that the spirit of the law is quite the opposite to what it has now been interpreted to mean.

- (a) In the fictional example cited above the whole debenture debt of \$80,000 would fall on the property of a very few public school supporters who would thus be saddled with a crippling burden of taxation for a school they would no longer need.
- (b) The question of a separation of rates for capital expenditure from those for current expenditure with the former constituting a continuing debt on the **property** on which it was first imposed, first arose in 1853 when both Protestant and Roman Catholic separate schools were covered under the same sections of the Act. In section IV of the Supplementary Common School Act of 1853 property of separate school supporters, both Protestant and Roman Catholic, was exempted from all public school rates "except for any rate for the building of school houses undertaken before the establishment of such separate school." Note that "before the establishment of such separate school" refers to the undertaking to build a school house instead of to the imposition of a rate for the building of a school house as is now the case.

But the interesting and illuminating part of the whole matter is that the original wording still applies to Protestant separate school supporters in this province although it apparently no longer applies to Roman Catholic separate school supporters.

Section 10 of The Separate Schools Act (referring to a Protestant separate school) after providing for the exemption of supporters of the Protestant separate school from public school rates, goes on:

"(2) Such exemption shall not extend . . . to school taxes imposed or to be imposed to pay for school houses, the erection of which was undertaken or entered into before the establishment of the separate school. RSO, 1950, c. 356, S. 11".

The inclusion of the words "to be imposed" in Section 10 makes it perfectly clear that Mr. Justice Porter could not have made the judgment he did had Slevar been a Protestant separate school supporter. Is it fair

that the two types of separate school supporters should be treated so differently? Surely, the same provision should apply to both. It is our earnest recommendation therefore:

that The Separate Schools Act be amended so as to bring the provisions relating to liability of separate school property to taxation for repayment of capital debts incurred before the establishment of the separate school into line by making the provisions of Section 10(2) applicable to Roman Catholic separate schools.

Under the present Acts and Regulations it is more advantageous to the newly-formed separate school board to go ahead and build a completely new school than to purchase the existing public school. This might be remedied by having the purchase of a school by one board from another approved by the Minister so that a grant could be paid on the debt charges incurred in borrowing the money to pay for it. This would cost the province less and lessen the burden on the public school supporters. Let us examine the hypothetical situation mentioned above.

The newly formed separate school board, let us suppose withdraws 75% of the assessment and pupils from the public school. (We will suppose that the equalized assessment per classroom and hence the percentage rate of grant remains the same for both boards as it was for the public school board before the separation.)^x The separate school board could follow one of two courses:

- (a) Purchase the \$80,000, four-room school from the public school board by the issuance of debentures.
- (b) Build a new three-room school by the issuance of debentures.

If course (a) is followed, the public school board would need to build a new one-room school. It would receive \$80,000 cash for the school (raised by the issuance of separate school debentures) of which it would pay \$60,000 to the province. With the remaining \$20,000 it could build the new one-room school, debt free. However, it would still have an outstanding debenture issue of \$80,000 for the sold school. Of this, the province would be obligated to pay 75%, or \$60,000, leaving a net debt of \$20,000 on the public school ratepayers. However, the next year, the public school board would receive a grant of 75% of \$20,000 or \$15,000 in cash on the expenditure for the new school. This could be put into a sinking fund and would retire all but \$5,000 of the outstanding debt. Thus the net

^x) For the purposes of this example, let us assume that the applicable percentage rate is 75.

debt of the public school board would be \$5,000 for 1 classroom as compared with \$20,000 for 4 classrooms prior to the separation. The separate school board would have a net debt of \$20,000 for its three classrooms in use for a net debt of \$6,667 per classroom. However, it would have an extra classroom to provide for future expansion.

If course (b) is followed, the situation would be quite different. The public school board would have a net debt of \$20,000 which, since only one classroom would be used, would really be \$20,000 net debt per classroom. The separate school board could build a three-room school for \$60,000 on which it would have a net debt of \$15,000 or \$5,000 per classroom, exactly the same per classroom debt as its ratepayers had before separation. Under this plan, therefore, the public school supporters would have a net debt per classroom four times that of the separate school supporters.

The cost to the province would likewise increase under course (b). Before separation, the cost of school facilities in the community to the province was \$60,000 — 75% of the debenture debt. Under course (a) this cost would rise to \$75,000, a rise of \$15,000 caused by the payment of a grant of \$15,000 on the new \$20,000 one-room school. But under course (b) the provincial cost would rise to \$105,000 — the debenture charges on the public school (\$60,000), plus the debenture charges on the new separate school (\$45,000).

This whole picture becomes further distorted if the equalized assessments per classroom, and hence the grant percentages, change after separation, for almost invariably the change would be in the direction of an increase in the grant percentage of the separate school board and a decrease in that of the public school board. If the public school rate dropped to 70% and the separate school rate rose to 80%, the net cost per classroom to the public school board under course (b) would rise to \$24,000 while that of the separate school board would drop to \$4,000, one sixth instead of one quarter of the public school net cost per classroom. Under course (a), however, the public school net cost per classroom would be \$6,000 and the separate school net cost per classroom would be \$5,333.

We therefore respectfully recommend that conditions be made favourable for the purchase of the public school by a new separate school in cases where otherwise the public school board would be left with a heavy debt for unneeded classroom space.

Another way to avoid this type of problem, of course, would be to make the financial unit for public school finance much larger so that such a burden would be spread over all public school ratepayers in the financial unit. Perhaps a county school finance board for public schools on the Metro model would be the answer.

Liability for Debenture Debt of a Person Changing from a Public School

Supporter to a Separate School Supporter and Vice Versa

All of the foregoing relates only to cases where a separate school is newly established in a municipality. There are, however, indications in the Acts that there is a continuing liability for school debenture rates on property of a public school supporter which is sold to or becomes tenanted by a separate school supporter. Section 3 of The Public Schools Act states:

“3. Nothing in this Act authorizing the levying or collecting of rates on taxable property for public school purposes shall apply to the supporters of Roman Catholic separate schools, except that all taxable property shall continue to be liable to taxation for the purpose of paying any liability incurred for public school purposes while the property was subject to taxation for such purposes. RSO, 1950, c. 316, S. 3”.

If the issuance of debentures by a public school board may be said to create a continuing liability on the property of public school supporters then Section 3 of The Public Schools Act makes such property still liable for rates to discharge this liability even if it becomes assessed for separate school purposes. This section, therefore, is in direct conflict with section 56(b) of **The Separate Schools Act** as interpreted by Mr. Justice Porter in the Slevar vs. Crowland case.

Subsection (2) of Section 58 of **The Separate Schools Act** also seems to assume that a liability for debenture debt remains with the property when the latter is transferred to the jurisdiction of another board. It reads:

“58. (2) A supporter of a separate school having a debenture debt shall not be bound to become a supporter of another separate school while any part of such debt remains unpaid. RSO, 1950, c. 356, S. 58”.

The only justification for such an enactment would be that such a separate school supporter would otherwise become liable for the debenture debt of both separate schools.

On the other hand, subsection (2) of Section 62 of **The Separate Schools Act**, if interpreted in the same way as subsection 6 of Section 56 of the same Act (i.e. according to the Porter judgment) would eliminate any such dual responsibility for debenture debt. The subsection reads:

"62. (2) A person who has withdrawn his support from a Roman Catholic separate school shall not be exempt from paying rates for the support of separate schools or separate school libraries, or for the erection of a separate school house, imposed before the time of his withdrawing such support. RSO, 1950, c. 356, S. 62."

Under the new interpretation this relieves such a separate school supporter of all rates for another separate school except those **imposed** while he was still a supporter of the other separate school. Hence there is no need for subsection 58.

Since this new decision merely adds confusion to this whole question of the continuing liability of property for debenture debt upon the transfer of the owner's or tenant's support to schools operated by another board we recommend:

that either a Royal Commission or a select committee of the Legislature be appointed to study the matter fully and recommend changes in the Acts which once and for all will clarify the situation.

3. The Legal Bases for Determining Separate School Support

(a) Conflicting Provisions of The Separate Schools Act and The Assessment Act

For more than three-quarters of a century the method by which Roman Catholics are recorded on the assessment rolls as public — or separate — school supporters has been the subject of much debate and confusion. In some quarters it is held that all ratepayers, regardless of religious affiliation, are initially and automatically public school supporters but that Roman Catholics who reside within 3 miles in a direct line from the site of a Roman Catholic separate school may elect to become separate school supporters by filing a written notice of their intention with the clerk of the municipality in which they reside or are assessed. In other quarters it is held that all Roman Catholics within 3 miles of a separate school are automatically separate school supporters and that if they wish to become public school supporters they must file a notice to that effect with the municipal clerk.

The basis of this confusion is not hard to find; it is to be found in the statutes themselves. **The Separate Schools Act**, in sections dating back to 1863, confirms the first of the abovementioned opinions while **The Assessment Act**, in sections dating back to 1879, supports the latter.

The Hope Commission, in 1950, after careful study of the whole question, recommended that the version in the Separate Schools Act be retained, since it antedated the Confederation Agreement and that **The Assessment Act** be amended so as to remove the conflicting provisions.

The relevant sections of **The Assessment Act** not only contravene those of **The Separate Schools Act** but also are internally inconsistent.

Section ⁵⁹~~68~~ of **The Separate Schools Act** reads as follows:

- (1) The clerk of every municipality shall keep entered in an index book (Form 1) and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality notice in writing that such person is a Roman Catholic and a supporter of a separate school, in or contiguous to the municipality, as provided by sections 56, 61, 66 and 67, or by former Acts respecting separate schools.
- (2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section ⁶²~~62~~, or by any such other Act, with the date of the withdrawal, or any disallowance of the notice by the court of revision, by a judge of the county or district court, by the Ontario Municipal Board or by the Court of Appeal, with the date of the disallowance.
- (3) The index book shall be open to inspection by any ratepayer.
- (4) The clerk shall file and carefully preserve all such notices heretofore or hereafter received.
- (5) The assessor shall be guided by the entries in the index book in ascertaining who have given the prescribed notices. R.S.O. 1950, c. 356, s. 63.

It is to be noted this entire section is mandatory legislation.

Section ²³~~23~~ of **The Assessment Act** assumes that section ⁶³~~63~~ of **The Separate Schools Act** is not being adhered to in all cases. It reads:

23. Where the index book required by section ⁶³~~63~~ of **The Separate Schools Act** is prepared, the assessor shall be guided thereby in ascertaining who have given the notices which are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax. R.S.O. 1937, c. 272, s. 29.

According to this section, the assessor is required to be guided by the index book **where it is prepared**, as if it were not prepared in all cases. The latter part of the section refers to the "notices which are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax." This clause admits that the notices are prerequisites for obtaining exemption. But after this corroboration of section 63 of **The Separate Schools Act, The Assessment Act** in section 24, goes on to make evasion of this prerequisite possible. Section 24 reads:

24. The assessor, where the entry in the index book mentioned in section 23 does not show a ratepayer to be a supporter of separate schools, shall accept the statement of the ratepayer, or a statement made on his behalf and by his authority, and not otherwise, that he is a Roman Catholic, as sufficient prima facie evidence for placing such person in the proper column of the assessment roll of separate school supporters, or if the assessor knows personally any ratepayer to be a Roman Catholic this shall also be sufficient for placing him in such last-mentioned column. R.S.O. 1937, c. 272, s. 30.

According to section 23, where the entry in the index book shows a Roman Catholic to have given notice that he is a separate school supporter, the assessor places his name in the column of the assessment roll for separate school supporters, but according to section 24, all a ratepayer who has not given the notice need do is indicate, either himself or through his agent, that he is a Roman Catholic (nothing about being or wanting to be a separate school supporter) and the assessor is to place his name among those of the separate school supporters. The last clause of section 24, however, does most violence to the provisions of **The Separate Schools Act**, since it allows the assessor, without any statement from or on behalf of the ratepayer, to place a ratepayer's name among those of the separate school supporters if he knows personally that he is a Roman Catholic.

There would seem to be little doubt that section 24 is based on the concept that where there is a separate school in the municipality or in a contiguous municipality all Roman Catholics should automatically be separate school supporters. Section 25 provides for the cases where a Roman Catholic wishes to support a public school: he may complain in writing to the municipal clerk that he has been incorrectly recorded as a separate school supporter and the complaint will be determined by a court of Revision.

It is difficult to understand why these two conflicting provisions have been allowed for so long to confuse successive generations of school trustees, ratepayers, educational officials, and the general public.

To make the method provided for in section 24 the only method would require considerable rewriting of the **Separate Schools Act** and would violate the principle that was in effect at the time of the Confederation Agreement viz: that all ratepayers, irrespective of religion, are required by law to be supporters of the free public schools but that those who are Roman Catholic have the right to elect to support Roman Catholic separate schools.

We therefore recommend:

that **The Assessment Act** R.S.O. 1950, chapter 24, be amended by repealing sections 23 and 24 and substituting the following therefor:

23. The assessor shall be guided by the index book required by section 63 of **The Separate Schools Act** in ascertaining who have given the notices which are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax.
24. Where the entry in the index book mentioned in Section 23 does not show a ratepayer to be a supporter of separate schools, the assessor shall place the name of such person in the proper column of the assessment roll for public school purposes.

(b) The Landreville Decision Re the 3-mile Limit

On July 6th, 1960, Mr. Justice Landreville of the Ontario Supreme Court in the case of Vandekerckhove vs. Middleton Township ruled that a separate school supporter should not be deprived of his right to support the school of his choice merely because the school operated by the Separate School Board within the statutory 3-mile limit from the plaintiff's residence was closed by the board and pupils accommodated at another school operated by the board. This decision has raised the question of whether the ruling nullifies section 57 of **The Separate Schools Act** which states:

"Subject to the other provisions of this Part, no person shall be deemed a supporter of a separate school unless he resides within three miles in a direct line of the site of the schoolhouse, R.S.O. 1950, c. 356, s. 57."

History of the 3-mile limit

Prior to 1855, under the provisions of the common school acts of 1850 and 1853, both common and separate school sections could unite

with other contiguous common or separate school sections, respectively, to form union school sections. The passing of the Tache Separate School Act of 1855, in its attempt to make the provisions for Separate Schools in Upper Canada similar to those for dissentient schools in Lower Canada, made the separate school section coterminous with the common school section and made no provision for the establishment of separate school union sections.¹

Ryerson stated:

"Two, or more, Common School Sections can be united into one; nor is there any just reason why Separate School Sections should not be allowed to do the same as is provided by the third Section of the Bill."

The Bill referred to in the above quotation was drafted by Ryerson "to meet the reasonable objections which had been urged against the Tache Separate School Act of 1855",² which had resulted in the presentation to the legislature in 1860 and 1861, of bills by Mr. Scott.

The section proposing union separate school sections first appeared in Mr. Scott's Bill of 1860 and was repeated in that of 1861. It proposed that the **trustees** of two or more separate school sections in the same or adjoining municipalities be empowered to unite such sections into a separate school union section. No restriction was to be imposed on the size of such union sections.

Ryerson's draft of a Bill early in 1862 proposed that the majority of separate school **ratepayers** in two or more separate school sections be empowered to form a separate school union section. No restrictions were proposed by Ryerson in his draft of Bill. Scott presented a new Separate School Bill in 1862 but his proposals with respect to union sections remained substantially the same as they had been in the Bills of 1860 and 1861. Ryerson objected strongly to Scott's Bill but by the time he reached Quebec, it had been amended considerably by a select committee of the Legislature to which it had been submitted. It was the select committee which first inserted a clause requiring separate school supporters to reside within three miles of the site of the school house. This clause was as follows:

19. No person shall be elected as a Trustee of any Separate School unless he resides within three miles of the Site, or proposed Site of the

1) See Ryerson's memorandum accompanying his Draft of Bill to Restore Certain Rights to Parties in respect to Separate Schools, 1862. Hodgins, J. C., DOCUMENTARY HISTORY, Vol. 17, p. 193.

"1" LOC. CIT.

2) Hodgins, op. cit., p. 192.

School House; nor shall any person be deemed a supporter of any Separate School unless he resides within three miles of the Site or proposed Site of the Schoolhouse.

The Bill as amended by the Select Committee was further amended by Ryerson. The section dealing with the formation of union separate school sections was changed to conform with Ryerson's own draft of a Separate School Bill (mentioned above) so that the ratepayers rather than the trustees would have the power to form such sections. Section 19, which had been added by the Select Committee, was amended by Ryerson so as to omit the words "or proposed site" where it appeared in both parts of the section.

It is pertinent to the present discussion to note Ryerson's reasons for insisting that the ratepayers, not the trustees, should decide on the formation of Union Sections. In his letter to **The Leader** of July, 1862, he stated:

"But the Bill, as reported by the Select Committee, permitted Trustees of Separate School Sections to form Union Sections to any extent they might please. To this I objected, and insisted that the ratepaying parents should be the judges as to forming Union Sections for Separate Schools, as well as for common schools; and, of course, they would not agree to any Union Section so large as to prevent their children from attending the School, and especially as the Bill provided, (as amended by the Committee) that no one should be recognized as a Supporter of a Separate School who should reside more than three miles from it."¹

This third Scott Separate School Bill as amended by the Select Committee and Ryerson did not reach third reading as the government was defeated. However, it formed the basis of Scott's Bill of 1863 which did pass as the Separate Schools Act of 1863, the last such Act to be passed before Confederation and hence the basis for the Confederation Agreement as far as Separate schools are concerned.

Section 19 of the 1863 Act reads as follows:

"No person shall be deemed a supporter of any Separate School unless he resides within three miles (in a direct line) of the site of the School House. 1863, c. 26, s. 19."

In commenting on criticisms of the Act to the effect that Section 19 destroyed Union Separate School Sections, Ryerson stated:

1) DOCUMENTARY HISTORY, Vol. 17, p. 218.

"Any man of common sense . . . will at once see from this clause of the Act, that any Separate School division must be six miles in diameter, or eighteen miles in circumference, dimensions beyond those of any Common School Section, or Union Section, that I know of in all Upper Canada."²

It would seem, then, that the main purpose of the 3-mile limit in Ryerson's day and for decades thereafter was to restrict the expansion of Separate School Union Sections so that Roman Catholics who would not be able to send their children to the separate school (3 miles was then the outside limit beyond which daily school attendance was impossible) could not divert their local taxes from the support of the common schools to the support of a separate school they could not use. Another aspect of this idea was the prohibition against a Roman Catholic non-resident of a separate school section, but one who owned unoccupied taxable property within the section, from having such property rated for separate school purposes.

In the present Separate Schools Act, however, this latter prohibition has been removed and it is provided that any person who, if resident in a municipality, would be entitled to be a supporter of a separate school therein or in an adjoining municipality, may, on giving the notice provided for by the Assessment Act, that he is the owner of unoccupied land situated in either municipality, require that all such land as is situated within the municipality wherein the separate school is situate or within the distance of three miles in a direct line of the site of the separate school, be assessed for the purpose of the separate school.

Since this would have conflicted with the forerunner of the present Section 57, the latter now appears with the words "subject to the other provisions of this Part" before it.

It is these words upon which Mr. Justice Landreville has based his judgment that the 3-mile limit does not apply in any part of Ontario, that is organized municipally. Section 56 of the Separate Schools Act states:

"56. (1) Every person paying rates, whether as owner or tenant, who by himself or his agent, on or before the 15th day of July in any year, gives to the clerk of the municipality notice in writing that he is a Roman Catholic and a supporter of a separate school situate in the municipality or in a municipality contiguous thereto shall be exempt from the payment of all rates imposed for the support of public schools and of public school libraries, or for the purchase of land or the erection of buildings for public school purposes within the city, town,

2) DOCUMENTARY HISTORY, Vol. 18, p. 306.

village or section in which he resides, for the following year, and every subsequent year thereafter while he continues a supporter of a separate school."

According to this section, a Roman Catholic can be exempted from public school rates if he is a supporter of a separate school in the municipality or in a municipality contiguous thereto and he gives a notice to the municipal clerk that he is a separate school supporter. Unfortunately, there is nowhere in the Act a definition of a "supporter of a separate school". In its generic sense the term might be assumed to mean any person (a) who sends his child to a separate school or (b) who supports the school with financial or other contributions. If we can accept this definition, section 56 says that any Roman Catholic who notifies the clerk by a certain date that he either sends his children to a separate school in his own or an adjoining municipality or subscribes towards its support shall be exempt from public school rates thereafter. It has always been assumed that section 57 limits this exemption to those separate school supporters who live within a three-mile radius of the school site. Justice Landreville says, however, that the phrase "subject to the other provisions of this Part" makes section 57 subordinate to section 56, that section 56 gives an unlimited right to all Roman Catholics in a municipality having a separate school, or in a contiguous municipality, to be supporters of such school and be exempt from public school rates. If this ruling is upheld, the 3-mile limit can be made effective only by inserting the words "subject to section 57", at the beginning of subsection (1) of section 56 and making some other minor changes.

In order to clarify this situation once and for all we therefore recommend:

1. that subsection 1 of section 56 of **The Separate Schools Act** be amended by inserting the words "subject to section 57" before the word "every" in the first line thereof;
2. that section 57 be amended by striking out the words "subject to the other provisions of this Part" in the first line thereof and inserting instead the words "subject to section 61".

Concluding Remarks

We know that the government desires to be fair to both public and separate school supporters and that the points we have advanced may have been thoroughly discussed and investigated. However, we feel that the

new grant plan which gives separate schools more than their per capita share of government assistance, together with the Porter and Landreville decisions and the curiously conflicting provisions of **The Separate Schools Act** and **The Assessment Act** with respect to separate school support warrant a reinvestigation of these problems.

Respectfully submitted,

Bryson E. Comrie, C.P.A.
President.

Rev. J. V. Mills, B.D.
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"62. (2) A person who has withdrawn his support from a Roman Catholic separate school shall not be exempt from paying rates for the support of separate schools or separate school libraries or for the erection of a separate school house, imposed before the time of his withdrawing such support. RSO, 1950, c. 356, S. 62."

Under the new interpretation this relieves such a separate school supporter of all rates for another separate school except those imposed while he was still a supporter of the other separate school. Hence there is no need for subsection 58.

Since this new decision merely adds confusion to this whole question of the continuing liability of property tax assessors after the transfer of the owner's or tenant's support to schools operated by another board we recommend:

that either a Royal Commission or a select committee of the Legislature be appointed to study the matter fully and recommend changes in the Acts which once and for all will clarify the situation.

4. The Legal Basis for Determining Separate School Support

(a) **Conflicting Provisions of The Separate Schools Act and The Assessment Act**

For more than three-quarters of a century the method by which Roman Catholics are recorded on the assessment rolls as public — or separate — school supporters has been the subject of much debate and confusion. In some quarters it is held that all ratepayers, regardless of religious affiliation, are initially and automatically public school supporters but that Roman Catholics who reside within 3 miles in a direct line from the site of a Roman Catholic separate school may elect to become separate school supporters by filing a written notice of their intention with the clerk of the municipality in which they reside or are assessed. In other quarters it is held that all Roman Catholics within 3 miles of a separate school are automatically separate school supporters and that if they wish to become public school supporters they must file a notice to that effect with the municipal clerk.

The basis of this confusion is not hard to find; it is to be found in the statutes themselves. **The Separate Schools Act**, in sections dating back to 1863, confirms the first of the abovementioned opinions while **The Assessment Act**, in sections dating back to 1879, supports the latter.



The Hope Commission, in 1950, after careful study of the whole question, recommended that the version in The Separate Schools Act be retained, since it antedated the Confederation Agreement and that The Assessment Act be amended so as to remove the conflicting provisions.

R.S.O. 1960
Sections

The relevant sections of The Assessment Act not only conflict with those of The Separate Schools Act but also are internally inconsistent.

Section 63 of The Separate Schools Act reads as follows:

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(1) The clerk of every municipality shall keep entered in an index book (Form 1) and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality notice in writing that such person is a Roman Catholic and a supporter of a separate school, in or contiguous to the municipality, as provided by sections 56, 61, 66 and 67, or by former Acts respecting separate schools.

47, 52, 57, 58

(2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section 62, or by any such other Act, with the date of the withdrawal, or any disallowance of the notice by the court of revision, by a judge of the county or district court, by the Ontario Municipal Board or by the Court of Appeal, with the date of the disallowance.

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(3) The index book shall be open to inspection by any ratepayer.

(4) The clerk shall file and carefully preserve all such notices existing or hereafter received.

(5) The assessor shall be guided by the entries in the index book in ascertaining who have given the prescribed notices. R.S.O. 1960 c. 296, s. 63.

It is to be noted this entire section is mandatory legislation.

Section 23 of The Assessment Act assumes that section 63 of The Separate Schools Act is not being adhered to in all cases. It reads:

25, 54

(1) Where the index book required by section 63 of The Separate Schools Act is prepared, the assessor shall be guided thereby in ascertaining who have given the notices which are by law necessary in order to enable supporters of Roman Catholic separate schools to be exempted from the public school tax. R.S.O. 1960 c. 273, s. 29.

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R.S.O. 1960
Sections

According to this section, the assessor is required to be guided by the index book **where it is prepared**, as if it were not prepared in all cases. The latter part of the section refers to the "notices which are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax." This clause admits that the notices are prerequisites for obtaining exemption. But after this corroboration of section 63 of *The Separate Schools Act*, *The Assessment Act* in section 24, goes on to make evasion of this prerequisite possible. Section 24 reads:

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24. The assessor, where the entry in the index book mentioned in section 23 does not show a ratepayer to be a supporter of separate schools, shall accept the statement of the ratepayer, or a statement made on his behalf and by his authority, and not otherwise, that he is a Roman Catholic, as sufficient prima facie evidence for placing such person in the proper column of the assessment roll of separate school supporters, or if the assessor knows personally any ratepayer to be a Roman Catholic this shall also be sufficient for placing him in such last-mentioned column. R.S.O. 1937, c. 272, s. 30.

26. 25

According to section 23, where the entry in the index book shows a Roman Catholic to have given notice that he is a separate school supporter, the assessor places his name in the column of the assessment roll for separate school supporters, but according to section 24, all a ratepayer who has not given the notice need do is indicate, either himself or through his agent, that he is a Roman Catholic (nothing about being or wanting to be a separate school supporter) and the assessor is to place his name among those of the separate school supporters. The last clause of section 24, however, does most violence to the provisions of *The Separate Schools Act*, since it allows the assessor, without any statement from or on behalf of the ratepayer, to place a ratepayer's name among those of the separate school supporters if he knows personally that he is a Roman Catholic.

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There would seem to be little doubt that section 24 is based on the concept that where there is a separate school in the municipality or in a contiguous municipality all Roman Catholics should automatically be separate school supporters. Section 25 provides for the cases where a Roman Catholic wishes to support a public school: he may complain in writing to the municipal clerk that he has been incorrectly recorded as a separate school supporter and the complaint will be determined by a court of Revision.

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It is difficult to understand why these two conflicting provisions have been allowed for so long to confuse successive generations of school trustees, ratepayers, educational officials, and the general public.

R.S.O. 1960
Sections

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To make the method provided for in section 24 the only method would require considerable rewriting of the *Separate Schools Act* and would violate the principle that was in effect at the time of the Confederation Agreement viz: that all ratepayers, irrespective of religion, are required by law to be supporters of the free public schools but that those who are Roman Catholic have the right to elect to support Roman Catholic separate schools.

We therefore recommend:

that **The Assessment Act** R.S.O. 1950, chapter 24, be amended by repealing sections 23 and 24 and substituting the following therefor,

25, 26

23. The assessor shall be guided by the index book required by section 23 of **The Separate Schools Act** in ascertaining who have given the notices which are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax.
24. Where the entry in the index book mentioned in Section 23 does not show a ratepayer to be a supporter of separate schools, the assessor shall place the name of such person in the proper column of the assessment roll for public school purposes.

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(b) **The Landreville Decision Re the 3-mile Limit**

On July 6th, 1960, Mr. Justice Landreville of the Ontario Supreme Court in the case of Vandekerckhove vs. Middleton Township ruled that a separate school supporter should not be deprived of his right to support the school of his choice merely because the school operated by the Separate School Board within the statutory 3-mile limit from the plaintiff's residence was closed by the board and pupils accommodated at another school operated by the board. This decision has raised the question of whether the ruling nullifies section 57 of *The Separate Schools Act* which states:

"Subject to the other provisions of this Part, no person shall be deemed a supporter of a separate school unless he resides within three miles in a direct line of the site of the schoolhouse, R.S.O. 1950, c. 356, s. 57."

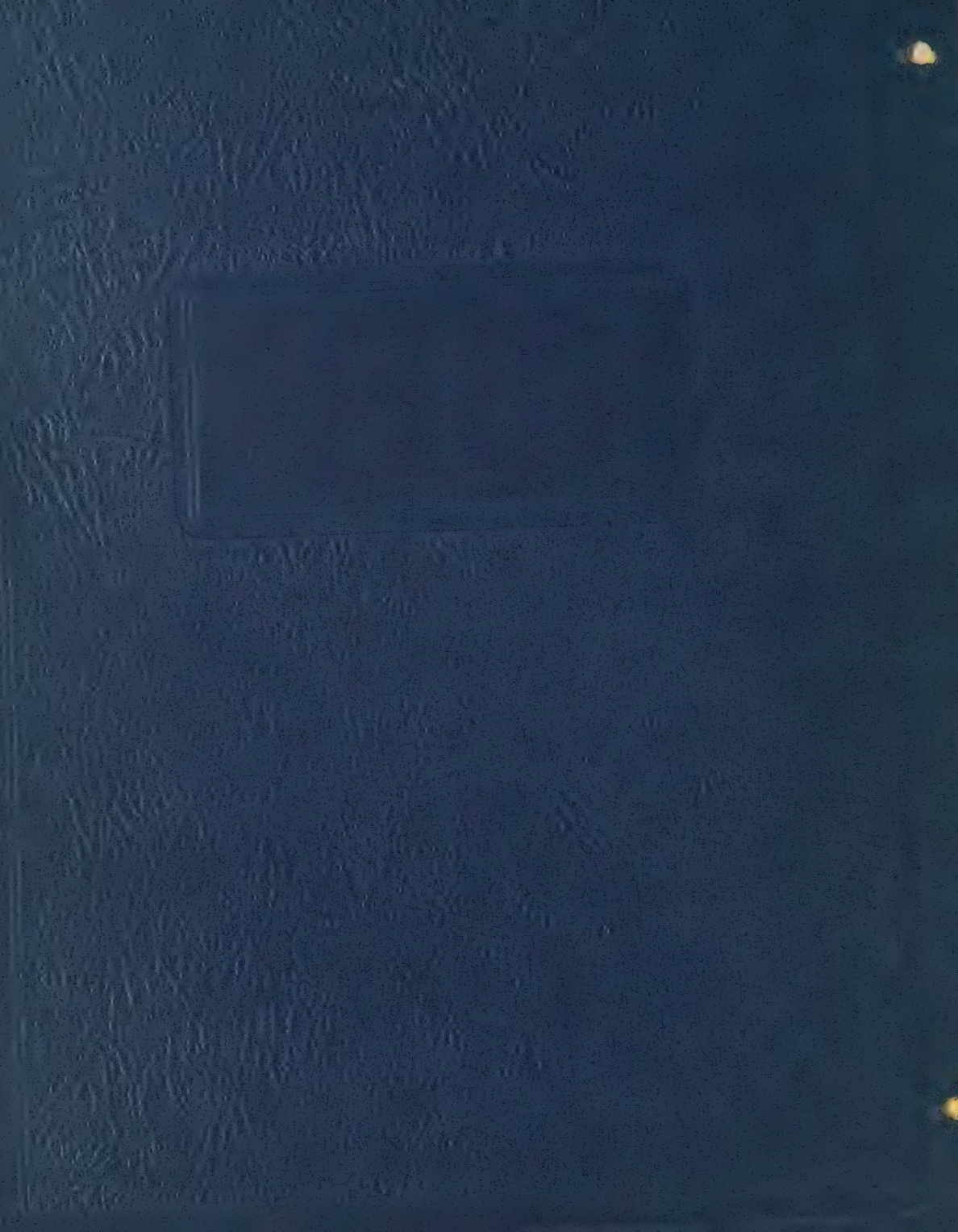
History of the 3-mile limit

Prior to 1855, under the provisions of the common school acts of 1850 and 1853, both common and separate school sections could unite

A BRIEF

on

MUNICIPAL LICENSING



A BRIEF

Submitted to

THE CHAIRMAN AND MEMBERS

of the

SELECT COMMITTEE ON

MUNICIPAL LAW

of the

LEGISLATIVE ASSEMBLY

of

ONTARIO

By the

ONTARIO CONFERENCE

of the

SEVENTH-DAY ADVENTIST CHURCH

IN CANADA

Department of Public Affairs

September, 1961

INTRODUCTION: Mr. Chairman and Honourable Members, the Seventh-day Adventist Church in Ontario begs leave to submit observations with reference to certain provisions of the Municipal Act of Ontario.

This submission has been made after much study, and the views set forth represent the considered opinions of the membership of this communion across Canada and in particular those who reside in Ontario. We believe that they will merit your consideration in a spirit of sympathetic understanding.

After considerable consultation and discussion with various officials of the Department of Municipal Affairs it was felt that it would be advisable to set forth certain views in the more formal terms of a brief for your study and consideration at this time.

HISTORICAL BACKGROUND: Seventh-day Adventists are a conservative Christian communion whose theological antecedents unite us in some respects with our co-religionists in the Catholic, Anglican, Lutheran, Presbyterian, Baptist, Methodist (United Church), and Congregational faiths.

Growing out of the great religious renaissance of the 14th-16th centuries and more particularly the re-awakening of the mid-19th century with its emphasis on the eschatological teachings of Scripture Seventh-day Adventists emerged as a distinct church organization. We believe in the Holy Bible as the only sufficient guide or rule of faith and our name fairly sums up our outstanding and distinguishing doctrines.

A conviction that the seventh day of the week (Saturday) is the only day of religious worship mentioned in the Bible and observed by Christ and His apostles leads Seventh-day Adventists to observe the Sabbath from sundown Friday night to sundown Saturday night. The Biblical teaching of the literal, visible, and physical return of Christ to this earth and the need for men and women to prepare for this cataclysmic triumph of the Christian faith is the other salient doctrine summed up in the name.

Numbering a million and a quarter members around the world (practicing baptism by immersion they count only adults) and almost 14,000 in Canada, Seventh-day Adventists conduct a worldwide programme of Christian missions, education, welfare,

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is crucial for ensuring transparency and accountability in the organization's operations.

2. The second part outlines the various methods and tools used to collect and analyze data. It mentions the use of surveys, interviews, and focus groups to gather information from stakeholders. Additionally, it discusses the application of statistical analysis to interpret the collected data.

3. The third part describes the process of identifying trends and patterns in the data. It highlights the need for a systematic approach to data analysis, involving the identification of key variables and the use of appropriate statistical techniques.

4. The fourth part focuses on the communication of findings. It stresses the importance of presenting the results in a clear and concise manner, using visual aids such as charts and graphs to enhance understanding. It also mentions the need to tailor the communication to the specific audience.

5. The fifth part discusses the implications of the findings and the potential for future research. It suggests that the results can be used to inform decision-making and to develop strategies to address identified issues. It also mentions the need for ongoing monitoring and evaluation to ensure the effectiveness of the implemented measures.

6. The sixth part concludes the document by summarizing the key points and reiterating the importance of a data-driven approach to organizational management. It encourages the organization to continue to invest in data collection and analysis to achieve its goals and improve its performance.

evangelism, and medical and colporteur services to the community. It is their firm conviction that devout Christianity and a strong sense of social responsibility are not incompatible.

They believe that governments "are ordained of God" and teach obedience to properly constituted civic authority within its legitimate sphere as a religious obligation. They love the Queen, Her Gracious Majesty Elizabeth II, their country, and the flag that represents our great traditions of responsible government, parliamentary institutions and liberty. They view the preservation of their tradition of personal liberty and the freedom to promulgate the doctrines of their church as their proper rights according to their articles of incorporation.

The Seventh-day Adventist Church in Canada is incorporated By Act of Parliament, 1916 (revised in 1935) and by the Province of Ontario under Letters Patent (September 11, 1928, Revised July 19, 1951).

STATEMENT OF THE PROBLEM: Among the various activities through which Seventh-day Adventists serve the public the publications and literature ministry of the church is one of the important phases in the promulgation of the Church's faith and is perhaps the most widely known. Trained colporteur-evangelists sell educational, medical, religious, and children's books and magazines in the community. Their publications are acknowledged to be of a high class in content and material and are very well received by the public wherever they are known. It is felt that this type of religious literature fills a real need, especially in terms of children's books, providing a valuable and attractive alternative to the salacious literature flooding the newsstands today.

It is understood that when a municipality requires a license of an individual engaged in the sale of religious literature within the community it is not only within its rights, but, also by the very exercise of this right, it provides protection to such persons. The problem is not that the representatives of the Church are licensed or taxed, it is rather a case of the prohibitive degree to which certain municipalities exercise this right.

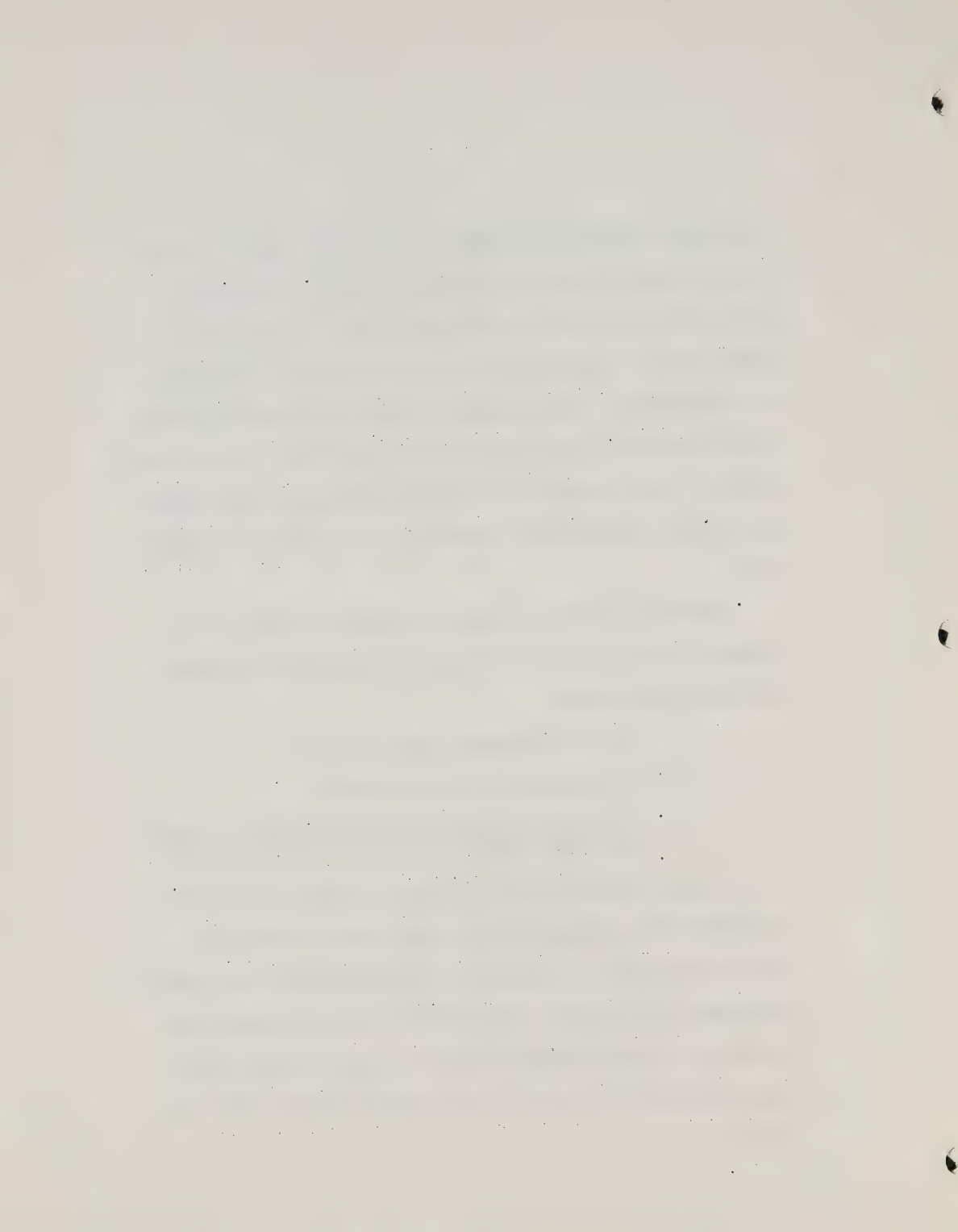
Whereas some communities have not concerned themselves about the matter as yet, the tax rate in other municipalities

is as high as \$300.00 per annum. (Exhibit A, Page 3.) It is our understanding that this type of by-law was enacted to govern the number and kind of sales persons, particularly those who are considered a nuisance or fraudulent or both to the communities. Some municipal councils have indicated that their by-law was never intended to restrict work of a religious nature. This favourable attitude by some suggests that there may be others besides our colporteurs who suffer in a similar way.

Officials in the Department of Municipal Affairs have indicated that the level of license fees should be governed by three basic factors:

1. To curb fraudulent sales practices.
2. To minimize the nuisance factor.
3. To provide revenue but only sufficient to cover the cost of administering the license by-law.

It would appear that on the basis of the figures cited in Exhibit "A" as supplied by the Department of Municipal Affairs that there is a general trend leading away from these fundamental principles. The tendency to impose license fees amounting to several hundred dollars a year certainly cannot be justified on the basis of the essential factors mentioned above.



OBSERVATIONS: Seventh-day Adventists believe in good government and are always ready and willing to obey and support the government of the country at all levels. They also believe in the right of governing authorities to levy taxes for the support, administration, and progress of the community.

It seems appropriate that those performing services to the community, such as is outlined in the section entitled "Statement of the Problem", should be licensed. However, it does appear that when a municipality imposes a license fee so high that it prohibits a legitimate church organization from engaging in a bona fide religious activity such licensing is evil and unreasonable both to the church and the community.

Freedom to license so prohibitively constitutes a clear threat to the liberties cherished by all Canadians. When such restrictions are imposed even upon a single religious body then the religious freedoms of all are imperilled.

SUBMISSION: As already stated, the Seventh-day Adventist Church in Canada is not opposed to licensing in principle; rather, it recognizes that licensing affords protection to both the Church and the community. However, the Church holds that such a tax or license fee should be commensurate with the cost of administering the license by-law.

It would appear reasonable to suggest that a religious organization properly incorporated under federal and provincial jurisdiction should not have to obtain, in effect, annual municipal recognition for the exercise of a right already granted to it by federal and provincial authorities. The failure to accept this essential point suggests an inconsistent interpretation with respect to Ontario's historic allegiance to the time-honoured British tenet of freedom of religion and responsible parliamentary government.

With great respect it is submitted that the rights of the municipality and of the Church need not be incompatible. If the imposition of a nominal or token license fee is mutually acceptable so that it does not assume the sinister dimensions of a prohibitory nature the rights of both can be respected without discrimination or prejudice to the essential objectives of the Church and the community.

It is respectfully suggested that appropriate amendments to the Municipal Act be recommended by this committee to the Legislature which would assure the protection of the basic rights of a church to engage in the sale and distribution of Bibles and literature in accordance with its teachings in any community provided its representatives have complied with the municipal license by-laws and that such licenses not be permitted to exceed the minimal cost of license administration.

PROPOSED AMENDMENTS

It is respectfully suggested that the views expressed in this submission can be given effect by either one of the following draft amendments to Section 410, subsection 1 (a) of the MUNICIPAL ACT:

A. That Section 410, subsection 1 (a) of the Municipal Act be amended by adding thereto the following:

(vi) if the goods, wares or merchandise consist solely of Bibles, books, periodicals and other literature of a religious nature distributed or sold by the representatives or agents of any religious denomination duly incorporated in Canada.

or

B. That Section 410, subsection 1 of the Municipal Act be amended by adding thereto the following paragraph:

(i) if the goods wares or merchandise consist solely of Bibles, books, periodicals and other literature of a religious nature distributed or sold by the representatives or agents of any religious denomination duly incorporated in Canada the fee shall not exceed \$10.00 for one year.

CONCLUSION: Mr. Chairman and Honourable Members, we thank you for your courtesy in receiving our submission. We are confident that in your capable hands justice will be done with a view to the welfare and development of our great Province of Ontario and the country at large.

We believe that it is our duty to properly inform those who are charged with the formulation and enforcement of our laws with the views of a significant segment of the population. This we have tried to do with restraint and fidelity.

We wish to assure you of our loyalty to our Queen, our Country, and above all to our God. We are profoundly grateful that in Canada and especially in Ontario we can serve both without conflict and we shall ever pray that this might always be the case.

Conscious as we are of the heavy responsibilities that devolve upon the Lieutenant Governor, his ministerial advisers and the Members of the Legislature we shall pray God's abundant blessings upon your joint endeavours in the public service of our Province. God Save the Queen!

APPENDIX

EXHIBIT "A"

PREPARED WITH INFORMATION SUPPLIED BY THE

ONTARIO DEPARTMENT OF MUNICIPAL AFFAIRS

Special attention directed to the following:
 ** \$300.00 license fee per annum
 * \$150.00 to \$200.00 license fee per annum
 The remainder \$100.00 license fee per annum

| <u>PAGE</u> | <u>MUNICIPALITY</u> | <u>PAGE</u> | <u>MUNICIPALITY</u> |
|-------------|---------------------|-------------|-------------------------|
| 1 | Town Acton | 8 | I. D. Mountjoy |
| 1 | Town Arnprior | 8 | Town New Toronto |
| 1 | Vge. Bancroft | 8 | Twp. Nipigon |
| 2 | I.D. Bicroft | 8 | City North Bay |
| 2 | Town Blenheim | 9 | Town Orillia |
| 2 | Town Brampton | 9 | City Oshawa |
| 2 | City Brantford | 9 | City Owen Sound |
| 3 | Twp. Chapleau | 9 | Town Pembroke |
| 3 | ** City Chatham | 10 | Town Picton |
| 3 | Town Collingwood | 10 | City Port Arthur |
| 3 | City Cornwall | 10 | * Twp. Rayside |
| 4 | Vge. Dundalk | 10 | Town Renfrew |
| 4 | * County Elgin | 10 | Town Ridgetown |
| 4 | Town Espanola | 11 | City St. Thomas |
| 5 | * Town Fort Erie | 11 | City Sarnia |
| 5 | City Fort William | 11 | County Simcoe |
| 5 | Town Geraldton | 11 | Town Sioux Lookout |
| 5 | Town Goderich | 11 | Town Stayner |
| 6 | Vge. Havelock | 11 | City Stratford |
| 6 | Town Hawkesbury | 12 | Town Sturgeon Falls |
| 6 | Town Hearst | 12 | City Sudbury |
| 6 | Twp. Howick | 12 | Twp. Teck |
| 6 | Twp. Innisfil | 12 | Imp. Dist. Terrace Bay |
| 6 | Town Kapuskasing | 12 | Town Timmins |
| 7 | Town Levack | 12 | Town Trenton |
| 7 | Town Lindsay | 13 | * Imp. Dist. Val Albert |
| 8 | Town Milton | 13 | Vge. Westport |
| 8 | Vge. Milverton | 13 | Twp. Webbwood |
| 8 | Town Mitchell | 13 | Town Whitby |

| MUNICIPALITY | BY-LAW NO. | DATE APPROVED
BY DEPARTMENT | ONE FEE | FEES VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT, ETC. | | FEES VARY FOR
E. DIARS WITH
VEHICLES AND ON FOOT | |
|-----------------------------|--------------|--------------------------------|---------------------|--|-------|--|--------------------------|
| | | | | | | RESIDENT | NON-RESIDENT |
| TOWN ACTON | Not Numbered | 19/2/54 | | \$50. to \$100. | | | |
| TOWN AJAX | 170 | 17/4/56 | \$50. | | | | |
| TOWN ALEXANDRIA | 756 | 8/4/56 | \$50. | | | | |
| TOWN ALLISTON | 646 | 22/8/50 | | \$10. to \$50. | | | |
| TOWN ALMONTE | 1186 | 19/4/56 | (No By-law on file) | | | | |
| TWP. AMABEL | Not Numbered | 15/9/53 | \$50. | | | | |
| TOWN ARNPRIOR | 1024 | 8/16/49 | | \$50. to \$100. | | | |
| VGE. ARTHUR | 1212 | 5/1/55 | \$50. | | | | |
| VGE. ATHENS | 466A | 15/5/53 | | \$10. to \$75. | | | |
| TWP. ATIKOKAN | 317 | 29/11/55 | | \$25. | \$50. | | |
| TOWN AURORA | 1125 | 8/8/52 | \$10. | | | | |
| TOWN AYLMER | 1347 | 26/7/51 | | \$5. to \$25. | | | |
| TWP. BALFOUR | 58-5 | 4/6/58 | | \$25. to \$75. | | | |
| IMP. DISTRICT
BALMERTOWN | 80-102 | 17/1/55 | \$25. | | | | |
| VGE. BANCROFT | 660 | 13/2/56 | | \$50. to \$100. | | | |
| TOWN BARRIE | 2239 | 23/5/57 | \$100. | | | | |
| VGE. BARRY'S BAY | 115 | 20/6/52 | | \$25. to \$50. | | | |
| IMP. DISTRICT
HEARDMORE | 203 | 19/6/58 | | (Can only carry on business
between 9 A.M. to 5:30 P.M.) | \$10. | \$75. | \$10. for bakers & dairy |

January 22nd, 1960

| <u>MUNICIPALITY</u> | <u>BY-LAW NO.</u> | <u>DATE APPROVED
BY DEPARTMENT</u> | <u>ONE FEE</u> | <u>FEE VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT, ETC.</u> | <u>ONE FEE
RESIDENT NON-RESIDENT</u> | <u>FEE VARY FOR
PEDLARS WITH
VEHICLES AND ON FOOT
RESIDENT NON-RESIDENT</u> |
|--|-------------------|--|----------------|---|--|---|
| TOWN CAPREOL | 409 | 10/11/48 | | | | \$5. to \$25. \$10. to \$50. |
| I.D. CARDIFF | 56-23 | 19/10/56 | \$10 | | | |
| VGE. CARDINAL | 519 | 3/7/59 | | | | \$15. \$25. \$50. |
| TOWN CARLETON PLACE | 1449 | 28/3/55 | \$100 | | | |
| TWP. CARRICK | 4 | 20/3/56 | | \$10. | \$30. | |
| TWP. CASIMIR,
JENNINGS &
APPLEBY | 247 | 12/8/53 | \$50. | | | |
| TWP. CHAPTEAU | 529 | 17/9/54 | | \$50. to \$100. | | |
| CITY CHATHAM | 3369 | 27/4/49 | | \$50. | \$300. | |
| TOWN CHELMSFORD | 510 | 17/11/52 | | | | \$5. to \$25. \$10. to \$50. |
| TOWN CHESLEY | 1151 | 11/3/57 | | \$10. | \$50. | |
| TWP. CLARENCE | 1267 | 19/8/57 | | \$40. | \$50. -- This should be changed. | |
| TOWN COBALT | 976 | 11/3/52 | \$50. | | | |
| TOWN COBOURG | 2186 | 6/8/57 | \$75. | | | |
| TOWN COCHRANE | 731 | 5/2/51 | \$50. | | | |
| TOWN COLLINGWOOD | 1845 | 27/4/53 | | | \$75. | \$100. |
| TOWN CONISTON | 108 | 20/8/48 | | \$4. to \$20. | | |
| TOWN COPPER CLIFF | 201 | 23/8/48 | | \$4. to \$20. | | |
| CITY CORNWALL | 27A | 17/4/51 | | \$10. to \$100. | | |

| <u>MUNICIPALITY</u> | <u>BY-LAW</u> | <u>DATE APPROVED
BY DEPARTMENT</u> | <u>ONE FEE</u> | <u>FEE VARY FOR
PEDLIARS WITH
VEHICLES AND
ON FOOT, ETC.</u> | <u>ONE FEE</u> | <u>FEE VARY FOR
PEDLIARS WITH
VEHICLES & ON FOOT</u> |
|--------------------------|---------------|--|----------------|--|-----------------|--|
| | | | | | <u>RESIDENT</u> | <u>NON-RESIDENT</u> |
| TWP. CUMBERLAND | 1230 | 26/1/51 | | | | \$5. to \$15. \$10. to \$25. |
| I.D. DEEP RIVER | 77 | 18/3/57 | | | | \$5. to \$50. \$25. to \$75. |
| VGE. DELHI | 491 | 5/6/52 | \$50. | | | |
| TOWN DESERONTO | 1251 | 21/1/53 | \$35. | | | |
| I.D. DORION | 15 | 12/9/51 | | | \$15. | \$50. |
| TOWN DRESDEN | 831 | 9/11/49 | | \$4. to \$20. | | |
| TOWN DRYDEN | | Approved by letter | | \$4. to \$20. | | |
| VGE. DUNDALK | 469 | 6/12/54 | | \$25. to \$100. | | |
| TOWN DUNNVILLE | 515 | 13/11/53 | \$50. | | | |
| TOWN DUNDAS | 1416 | 26/8/49 | | | \$10. | \$50. |
| TOWN DURHAM | 330A | 13/11/57 | | | \$10. | \$50. |
| TWP. DYSART ET AL. 56-18 | | 5/3/58 | \$100. | | | |
| TWP. EDWARDSBURG | 1229 | 12/4/54 | | \$30. to \$75. | | \$5. to \$50. \$10. to \$200. |
| COUNTY ELGIN | 1304 | 23/10/48 | | | | |
| TOWN ELMIRA | 995 | 26/1/55 | \$50. | | | |
| VGE. ELOKA | 1108 | 12/6/52 | \$50. | | | |
| VGE. EMERO | 519 | 10/5/55 | | \$15. to \$40. | | |
| TOWN ESPANOLA | 24 | 28/4/59 | | \$0. to \$100. | | |
| TOWN ESSEX | 1177 | 6/11/50 | \$50. | | | |

January 22, 1960

| <u>MUNICIPALITY</u> | <u>BY-LAW NO.</u> | <u>DATE APPROVED
BY DEPARTMENT</u> | <u>ONE FEE</u> | <u>FEE VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT, ETC.</u> | | <u>ONE FEE</u> | | <u>FEE VARY FOR
PEDLARS WITH
VEHICLES AND ON FOOT</u> | |
|---------------------|-------------------|--|----------------|---|--------------|-----------------|-------|---|----------------|
| | | | | | | <u>RESIDENT</u> | | <u>NON-RESIDENT</u> | |
| TWP. ETOBICOKE | 4046 | 30/6/48 | | \$1. | \$2. & \$10. | | | | |
| TOWN EXETER | 7 | 27/3/51 | \$50. | | | | | | |
| VGE. FERGUS | 1204 | 14/11/50 | \$50. | | | | | | |
| TWP. WEST FERRIS | 396 | 11/8/49 L. | | \$5. to \$50. | | | | | |
| TWP. EAST FLAMBORO | 1052 | 20/6/49 | | | | \$15. | \$25. | | |
| VGE. FOREST HILL | 2108 | 7/6/49 | | \$8. to \$40. | | | | | |
| TOWN FORT ERIE | 967 | 13/10/48 | | | | | | | |
| TOWN FORT FRANCES | 1563 | 12/8/49 L | | \$10. to \$50. | | | | | \$1. to \$100 |
| CITY FORT WILLIAM | 4335 | 29/5/50 | | \$50. to \$100. | | | | | \$2. to \$150. |
| CITY GALT | 3998 | 20/11/51 | \$50. | | | | | | |
| TOWN GEORGETOWN | 496 | 28/4/49 | | \$5. to \$50. | | | | | |
| TOWN GERALTON | 338 | 4/12/50 | | \$50. to \$100. | | | | | |
| TWP. GLAMORGAN | 918 | 15/8/56 | \$10. | | | | | | |
| TOWN GODERICH | 15 | 18/6/53 | \$100. | | | | | | |
| VGE. GRAND BEND | 14 | 30/8/51 | \$50. | | | | | | |
| TWP. GRANTHAM | 1917 | 22/4/59 | | \$15. to \$30. | | | | | |
| TOWN GRAVENHURST | P292 | 10/7/50 L | | \$15. to \$50. | | | | | |
| TWP. GREENOCK | 1050 | 25/3/54 | | | | \$5. | \$10. | | |
| TWP. GREY | 4-1954 | 15/4/54 | \$50. | | | | | | |

January 22nd, 1960

| <u>MUNICIPALITY</u> | <u>BY-LAW NO.</u> | <u>DATE APPROVED
BY DEPARTMENT</u> | <u>ONE FEE</u> | <u>FEES VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT, ETC.</u> | | <u>ONE FEE</u> | | <u>FEES VARY FOR
PEDLARS WITH
VEHICLES AND ON FOOT</u> | |
|--|-------------------|--|----------------|--|--|-----------------|---------------------|--|-------------------------------|
| | | | | <u>ON FOOT, ETC.</u> | | <u>RESIDENT</u> | <u>NON-RESIDENT</u> | <u>RESIDENT</u> | <u>NON-RESIDENT</u> |
| CITY GUELPH | 3355 | 21/11/49 | | \$30. to \$50. | | | | | |
| TWP. NORTH
GWILLIMEBURY | 1195 | 10/10/50 | | | | \$5. | \$50. | | |
| TOWN HANOVER | 827 | 12/3/58 | | | | \$10. | \$50. | | |
| TOWN HARRISTON | 797 | 5/1/55 | | | | \$5. | \$25. | | |
| VGE. HASTINGS | 916 | 13/3/56 | \$50. | | | | | | |
| VGE. HAVELOCK | 616 | 5/8/53 | | | | | | \$30. to \$50. | \$50. to \$100. |
| TOWN HAWKESBURY | 890 | 22/4/55 | | | | | | \$25. to \$50. | \$50. to \$100. |
| TWP. HAY | 9 | 25/5/51 | | | | | | | |
| TOWN HEARST | 100/49 | 20/12/49 L | | \$2. to \$10. | | | | | |
| VGE. HENSALL | 19/48 | 11/8/48 | | \$10. to \$100 | | | | | |
| TOWN HESPELER | 1046 | 18/4/55 | | \$2. to \$10. | | | | | |
| TWP. HOWICK | 7-55 | 15/6/55 | | \$25. to \$100. | | | | | |
| TOWN INGERSOLL | 2287 | 9/7/59 | | \$10. to \$50. | | | | \$5. & \$30. per week and | \$10. to \$50. \$25. to \$75. |
| TWP. INNISFIL | 908 | 9/7/54 | | \$1. to \$100. | | | | | |
| TWP. KALADAR,
ANGLESEA &
EFFINGHAM | Not
Numbered | 15/1/52 | | \$5. to \$50. | | | | | |
| TOWN KAPUSKASING | 504 | 4/5/50 L | | \$25 to \$100. | | | | | |
| TOWN KEARNEY | 194 | 30/1/51 | \$30. | | | | | | |
| VGE. KEMPTVILLE | 689 | 10/12/53 | | \$30. to \$75. | | | | | |
| I.D. KENDRY | 55/11 | 25/5/55 | | \$5. to \$50. | | | | | |

January 22, 1960

| <u>MUNICIPALITY</u> | <u>BY-LAW NO.</u> | <u>DATE APPROVED
BY DEPARTMENT</u> | <u>ONE FEE</u> | <u>FEES VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT, ETC.</u> | | <u>ONE FEE</u> | | <u>FEES VARY FOR
PEDLARS WITH
VEHICLES AND ON FOOT</u> | |
|---------------------|-------------------|--|----------------|--|-------|-----------------|---------------------|--|--------------------------------|
| | | | | | | <u>RESIDENT</u> | <u>NON-RESIDENT</u> | <u>RESIDENT</u> | <u>NON-RESIDENT</u> |
| VGE. KILLALCE STA. | 334 | 19/12/58 | | \$25. to \$50. | | | | | |
| TOWN KINCARDINE | 1530 | Approved but no By-law on File | | | | | | | |
| VGE. LANARK | 912 | 10/4/59 | | \$10. to \$25. | | | | | |
| TWP. LARDER LAKE | 107 | 22/3/50 L | | \$10. to \$50. | | | | | |
| TOWN LEAMINGTON | 2086 | 15/9/53 | | \$25. to \$40. | | | | | |
| TOWN LEVACK | 64 | 24/3/49 | \$100. | | | | | | |
| TOWN LINDSAY | 2412 | 18/6/53 | | | | | | | |
| TOWN LISTOWEL | 1433 | 13/11/51 | \$50. | | | | | | |
| TOWN LIVELY | 11 | 28/9/53 | | \$4. to \$20. | | | | | |
| CITY LONDON | 27-290 | 2/11/50 | | \$5. to \$50. | | | | | \$30. to \$50. \$50. to \$100. |
| I.D. LONGIAC | 18 | 27/7/52 | | | \$25. | | | \$50. (Includes \$5. fee
for dairy products)
Wrong | |
| VGE. LUCIAN | Not Numbered | 20/12/49 | | \$5. to \$50. | | | | | |
| I.D. McGARRY | 247 | 7/3/59 | \$75. | | | | | | |
| TWP. McKIM | 917 | 16/3/55 | | | | | | | |
| TWP. McMURRICH | 8-56 | 17/4/56 | \$10. | | | | | | \$5. to \$25. \$10. to \$50. |
| TWP. MADOC | 435 | 1/15/60 | \$50. | | | | | | |
| TWP. MANVERS | 1325 | 17/4/56 | \$35. | | | | | | |
| I.D. MARATHON | 66 | 24/11/54 | | | | \$12.50 | | \$25. | |
| VGE. MARMORA | 357 | 29/9/48 L | | \$1. to \$50. | | | | | |
| TOWN MEAFORD | 164 | 3/7/50 | | \$10. to \$50. | | | | | |

January 22nd, 1960

| MUNICIPALITY | BY-LAW NO. | DATE APPROVED
BY DEPARTMENT | ONE FEE | FEES VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT, ETC. | | ONE FEE | | FEES VARY FOR
PEDLARS WITH
VEHICLES AND ON FOOT | |
|----------------------|------------|--|---------|---|-------|----------|--------------|---|----------------|
| | | | | | | | | | |
| | | | | | | RESIDENT | NON-RESIDENT | RESIDENT | NON-RESIDENT |
| TOWN MERRICKVILLE | 640 | 21/6/54 | | \$10. to \$50. | | | | | |
| TWP. MICHIPICOTEN | 186 | 18/2/57 | | \$25. to \$50. (Fees vary for Pedlars selling different types of goods) | | | | | |
| TWP. MERRICKVILLE | 9 | 7/9/54 | | | \$10. | | \$50. | | |
| TOWN MILTON | 985 | 23/4/54 | | \$50. to \$100. | | | | | |
| VGE. MILVERTON | 394 | 30/9/55 | | \$50. to \$100. | | | | | |
| TOWN MITCHELL | 402 | 14/5/57 | | | \$15. | | \$100 | | |
| TOWN MOUNT FOREST | 2103 | 23/5/57 | | | \$25. | | \$75. | | |
| TWP. MUSKOKA | 445 | 19/8/49 L | | | \$2. | | \$15. | | |
| I.D. MOUNTJOY | 90 | 1/8/50 | | \$5. to \$100. | | | | | |
| I.D. NAKINA | 3/58 | 21/4/58 | | | \$5. | | \$75. | | |
| TOWN NAPANEE | 25/51 | 11/10/51 | | | \$2. | | \$25. | | |
| TWP. NEEHING | 703 | 6/7/50 | \$10 | | | | | | |
| TWP. NEELON & GARSON | 562 | 17/10/52 | | \$10. to \$20. | | | | | |
| VGE. NEWCASTLE | 705 | 11/6/58 | \$75 | | | | | | |
| TOWN NEW LISKEARD | 1357 | 27/5/58 | | | \$10. | | \$50. | | |
| TOWN NEW TORONTO | 750 | No evidence of Department's approval - no by-law | | | | | | \$4. to \$20 | \$10. to \$60. |
| TOWN NIAGARA | 1356 | 7/4/54 | \$25 | | | | | | |
| TWP. NIPIGON | 599 | 9/11/54 L | | | \$15. | | | \$100. (& 90 day periods) | |
| VGE. NORWICH | 1074 | 5/10/50 | | \$1. to \$50. | | | | | |
| CITY NORTH BAY | 1599 | 5/12/50 L | | \$50. to \$100. | | | | | |

January 22nd, 1960

| <u>MUNICIPALITY</u> | <u>BY-LAW NO.</u> | <u>DATE APPROVED
BY DEPARTMENT</u> | <u>ONE FEE</u> | <u>FEES VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT, ETC.</u> | | <u>FEES VARY FOR
PEDLARS WITH
VEHICLES AND ON FOOT</u> | |
|---------------------|-------------------|--|----------------|--|---------------------------------|--|--|
| | | | | <u>RESIDENT</u> | <u>NON-RESIDENT</u> | <u>RESIDENT</u> | <u>NON-RESIDENT</u> |
| TOWN OAKVILLE | 1140 | 27/3/51 | | \$5. to \$50. | | | |
| VGE. OMENEPE | 743 | 13/3/50 | \$50. | | | | |
| I.D. ONAPING | 56-33 | 15/6/56 | \$2. | | | | |
| TOWN ORANGEVILLE | 2014 | 15/7/51 | | | | | |
| TOWN ORILLIA | 2004 | 8/9/48 | | \$5. | \$50. | | |
| TWP. OSGOODE | 9-1939 | 12/3/51 | | \$50. | \$100. | | |
| CITY OSHAWA | 3094 | 24/10/54 | | | | \$1. | \$12.50 to \$20. |
| CITY OTTAWA | 56-55 | 21/4/55 | L | | | \$10. to \$50. | \$10. to \$100.
(fees vary for diff. goods) |
| CITY OWEN SOUND | 2043 | 26/7/56 | \$100. | \$10. to \$50. | | | |
| VGE. PAISLEY | 1011 | 10/6/57 | \$50. | | | | |
| TOWN PALMERSTON | 986 | 3/6/52 | \$25. | | | | |
| TOWN PARIS | 1213 | 21/11/50 | | \$5. to \$10. | | | |
| TOWN PARKHILL | 807 | 21/11/49 | | \$5. to \$50. | | | |
| TOWN PARRY SOUND | 995 | 28/12/50 | | \$25. to \$50. | (Varies between class of goods) | | |
| TOWN PEMROKE | 1710 | 27/10/48 | \$100. | | | | |
| TOWN PENETANG | 1231 | 2/7/53 | \$50. | | | | |
| TOWN PERTH | 1789 | 6/5/49 | | \$30. to \$75. | | | |
| CITY PETERBORO | 2528 | 10/5/49 | | | | | \$30. to \$50. \$50. to \$75. |
| TOWN PETROLIA | Not numbered | 20/10/48 | | \$4. to \$20. | | | |

FEES VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT. ETC.

ONE FREE

BY-LAW NO.

MUNICIPALITY

\$10. to \$50.

\$5. to \$25.

\$50. to \$100.

\$10. to \$25.

\$25- to \$750.

\$70 + \$70

CLT

January 22nd, 1960

| <u>MUNICIPALITY</u> | <u>BY-LAW NO.</u> | <u>DATE APPROVED
BY DEPARTMENT</u> | <u>ONE FEE</u> | <u>FEE VARY FOR</u> | | <u>ONE FEE</u> | | <u>FEE VARY FOR</u> | |
|-----------------------|-------------------|--|----------------|---|--|---------------------|-------------------------|--|---------------------------------|
| | | | | <u>PEDLARS WITH
VEHICLES AND
ON FOOT, ETC.</u> | | <u>RESIDENT</u> | | <u>PEDLARS WITH
VEHICLES AND ON FOOT</u> | |
| | | | | | | <u>NON-RESIDENT</u> | | <u>RESIDENT</u> | <u>NON-RESIDENT</u> |
| VGE. ROSSEAU | 203 | 3/12/48 | | \$2. to \$10. | | | | | |
| CITY ST. CATHARINES | 5732 | 3/7/52 | | \$15. to \$50. | | | | | |
| CITY ST. THOMAS | 4-55 | 20/1/55 | | | | \$50. | \$100. & \$2. for Agent | | |
| TWP. SANDWICH E. | 1775 | 23/9/55 | | \$5. to \$50. | | | | | |
| TWP. SANDWICH WEST | 1246 | 7/10/49 | | \$1. to \$50. | | | | | |
| CITY SARNIA | 3590 | 1/12/52 | | | | | | | \$10. to \$100. \$50. to \$100. |
| CITY SAULT STE. MARIE | 2019 | 24/8/50 | | \$25. to \$65. | | | | | |
| TWP. SCHREIER | 277 | 13/5/50 | | \$15. to \$50. | | | | | |
| TWP. SHERWOOD ETC. | 173 | 12/1/56 | | \$25. to \$50. | | | | | |
| COUNTY SIMCOE | 2356 | 13/2/52 | | \$50. to \$100. | | | | | |
| TOWN SIMCOE | 1218 | 25/6/51 | \$50. | | | | | | |
| TWP. SHUNIAH | 787 | 23/6/52 | | | | | | | |
| TOWN SIOUX LOOKOUT | 667 | 28/7/59 | | | | \$20. | \$100. | \$5. to \$25 | \$10. to \$50. |
| TOWN SMITHS FALLS | 2414 | 2/5/49 | | \$30. to \$75. | | | | | |
| TOWN SOUTHAMPTON | 1041 | 11/2/52 | \$50. | | | | | | |
| TWP. STAMFORD | 1149 | 20/10/48 | | | | | | | |
| TOWN STAYNER | Not numbered | 21/12/53 | | \$25. to \$100. | | | | \$1. | \$6. to \$30. |
| VGE. STOUFFVILLE | 703 | 19/6/50 | \$25. | | | | | | |
| CITY STRATFORD | 5094 | 7/1/55 | | | | | | | |
| TOWN STRATHROY | 1702 | 6/8/52 | \$50. | | | | | | |
| | | | | Residence Nil at least 6 months \$50. less than 6 mos. \$100. | | | | | |

| MUNICIPALITY | EX-LAW NO. | DATE APPROVED
BY DEPARTMENT | CITY FEE | FEES VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT, ETC. | | ONE FEE | | FEES VARY FOR
PEDLARS WITH
VEHICLES AND ON FOOT | |
|------------------------|--------------|--------------------------------|---|--|--------------|----------|--------------|---|--|
| | | | | RESIDENT | NON-RESIDENT | RESIDENT | NON-RESIDENT | | |
| VGE. STREETSVILLE | 1033 | 3/8/55 | | | \$2. | | \$50. | | |
| TOWN STURGEON FALLS | 931 | 10/2/51 | | \$50. to \$100. | | | | | |
| CITY SUDBURY | 59-12 | 13/4/59 | | \$50. to \$100. | | | | | |
| VGE. SUTTON | 567 | 10/6/50 | \$50. | | | | | | |
| VGE. SWANSEA | 503 | 30/6/48 | | | | | | \$2. to \$8. \$2.50 to \$15. | |
| VGE. TARA | 595 | 24/4/58 | | | \$10. | | \$50. | | |
| VGE. TAVISTOCK | Not numbered | 12/7/49 | | \$15. to \$40. | | | | | |
| TWP. TECK | 1292 | 16/4/53 | | | | | | | |
| IMP.DIST.TERRACE BAY | 25A | 30/9/53 | \$100. & \$5. for bakeries and dairy products | | | | | \$1. to \$100. \$10. to \$100. | |
| VGE. THEDFORD | 343 | 28/4/49 | \$40. | | | | | | |
| TOWN THESSALON | 32 | 19/5/49 | \$50. | | | | | | |
| TOWN THOROLD | 1927 | 28/7/53 | \$50. | | | | | | |
| TOWN TILBURY | 272-52 | 24/2/53 | | | \$25. | | \$75. | | |
| TOWN TILLSBURG | 1410 | 27/8/57 | \$75. | | | | | | |
| TOWN TIMMINS | 1086 | 28/10/48 | | \$5. to \$100. | | | | | |
| TWP. TINY | 1190 | 7/8/53 | | \$5. to \$25. | | | | | |
| TWP. TISDALE | 746 | 9/10/48 | | No by-law on file | | | | | |
| MET. TORONTO | | 11/4/57 | | \$5. to \$5. | | | | | |
| METRO. LICENSING COMM. | | 14/5/52 | | \$50. to \$100. | | | | | |
| TOWN TRENTON | 809K | | | | | | | | |

January 22nd, 1960

| <u>MUNICIPALITY</u> | <u>BY-LAW NO.</u> | <u>DATE APPROVED
BY DEPARTMENT</u> | <u>ONE FEE</u> | FEES VARY FOR
PEDLARS WITH
VEHICLES AND
ON FOOT, ETC. | | FEES VARY FOR
PEDLARS WITH
VEHICLES AND ON FOOT | |
|---------------------------|----------------------------|--|----------------|--|-------|---|--------------------------------|
| | | | | | | <u>RESIDENT</u> | <u>NON-RESIDENT</u> |
| TOWN UYERIDGE | 1103 | 29/6/51 | \$50. | | | | |
| IMP. DIST. VAL ALBERT | 56-11 | 31/10/56 | | \$5. to \$200. | | | |
| TOWN VANKLEEK HILL | 449 | 4/12/57 | | \$7.50 to \$75. | | | |
| TOWN WALKERTON | 2094 | 2/4/53 | | | \$10. | \$50. | |
| TOWN WALLACEBURG | 1733 | 12/8/50 | \$100. | | | | |
| IMP. DIST. WASAGA BEACH | 9 | 14/5/46 | | \$1. to \$10. | | | |
| VGE. WATEROWN | 486 | 10/3/54 | | | \$10. | \$25. | |
| VGE. WATERFORD | 748 | 7/9/56 | \$50. | | | | |
| VGE. WESTPORT | 301 | 28/6/56 | \$100. | | | | |
| TWP. WEBWOOD | Not numbered | 29/4/49 | | \$50. to \$100. | | | |
| VGE. WELLINGTON | 605 | 30/4/54 | | \$10. to \$25. | | | |
| TWP. WESTMEATH | 746 | 25/1/54 | \$20. | | | | |
| TOWN WESTON | 1528 | 5/1/49 | | \$2. to \$30. | | | |
| TOWN WHITBY | 2240 | 30/10/59 | | | | | \$10. to \$50. \$20. to \$100. |
| IMP. DIST.
WHITE RIVER | 59-30 | 14/10/59 | \$50. | | | | |
| TOWN WIARTON | 663 | 27/6/51 | \$50. | | | | |
| TWP. WIDDIFIELD | 753 | 30/5/56 | | \$5. to \$50. | | | |
| VGE. WINCHESTER | 787 | 13/4/55 | \$25. | | | | |
| CITY WINDSOR | Police By-law
No number | 11/8/48 | | \$10. to \$50. | | | |
| TOWN WINGHAM | 1323 | 12/8/59 | | | \$10. | \$75. | |
| TWP. WOOLWICH | 1111 | 4/10/51 | | \$10. to \$25. | | | |

TAXPAYERS ASSOCIATION OF KITCHENER

FOR CITY AND CITIES

KITCHENER, ONTARIO
60 St. George St.

August 26th, 1952

The Hon. Frederick M. Cass,
Minister of Municipal Affairs,
Queens Park,
Toronto, Ontario.

Re Municipal Act

Hon. Sir:

It would be appreciated if you would bring the submission presented herein to the attention of the Select Committee studying the Municipal Act.

Submission

Included in the qualifications entitling a person to be entered on the Voters' List in a city is one indicating that the rating of the freehold or a leasehold shall have a minimum assessment of \$400.00. If he wishes to qualify to stand for election to Municipal Council it is stipulated he must reside within 5 miles of the city. As far as can be immediately ascertained this figure was the original figure inserted when the Municipal Act was made legislation 60, or more, years ago. Money values today rule out the possibility that an assessed value of \$400.00 represents a habitable property in any city. It is therefore felt the intention of the Act is lost. It would seem that rather than attempting to arrive at another figure residence within a city should be the requirement of a freeholder or leaseholder wishing to serve on Municipal Council.

Reason for submission

Here in the city of Kitchener we have had an instance where Regis-Office records show that a resident in the township has used a purported ownership of a mere building site, acquired late in September of one year, at a total cost of \$1.00 from a building contractor and re-sold to the same contractor at the same price 16 months later to qualify to hold municipal office for the succeeding two years. It was not an isolated instance, however.

Yours respectfully,

Taxpayers Association of Kitchener

Per Armin M. Bitzer,
Secretary-Treasurer.

Taxpayers Association of Kitchener

For City and Citizen

Directors:

~~Armin M. Bitzer~~, President

FRANK GROSS
HOWARD MARKLE } Vice-Presidents

MILTON HUEHN

JEROME SEHL

PHILIP YOUNG

ARMIN M. BITZER, Sec.-Treas.

KITCHENER
O N T A R I O

ALL THAT IS NECESSARY FOR THE TRIUMPH OF EVIL IS THAT GOOD
MEN DO NOTHING.

EDMUND BURKE, 1729-97.

Submission 1

In Part III, Who to be entered on the Voters' List

Section 37 (1) Every person is entitled to be entered on the voters' list prepared under the Voters' Lists Act who is,

- (d) rated or entitled to be rated to the amount herein-after mentioned.
- (2) The rating for land shall be in respect of a freehold or leasehold, legal or equitable, or partly of each to an amount not less than,
- (d) in cities, \$400.

In so far as it has been possible to determine the amount \$400. was the original figure when the Act was first enacted 80 or more years ago. If it is the intention that a habitable property is the requirement at today's values in Kitchener the figure should be at least \$4,000.

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Submission 2.

In Part II, Municipal Councils: - How Composed Qualifications

Section 34 (1) Every person is qualified to be elected a member of the council of a local municipality who,

- (a) is a householder residing in the municipality, or is rated on the last revised assessment roll of the municipality for land held in his own right for an amount sufficient to entitle him to be entered on the voters' list and resides in or within five miles of the municipality or is the wife or husband of a householder and who resides in or within five miles of the municipality;

It is submitted that the words "or within five miles etc" to the end of the sub-section be deleted and the words "the municipality" be substituted.

A person who declines to live within a municipality either for reasons of taxation or other preference cannot be in touch with the affairs of the municipality. Absentee landlordism has never been acceptable in democratic societies.

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Submission 3

In Part XIX, Powers to pass by-laws

Section 377 (48), Special Undertakings

- (e) reads: The Council may appoint not less than three and not more than seven persons who are qualified to be elected as members of the council to act on its behalf as a board of management for any undertaking under this paragraph, etc.

It is submitted that the appointees be required to make the same declaration and furnish the same proof of eligibility and as members of Council are required to furnish as outlined in Section 48.

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Taxpayers Association of Kitchener

For City and Citizen

KITCHENER
O N T A R I O

Directors:

~~Armin M. Bitzer~~, President
FRANK GROSS
HOWARD MARKLE] Vice-Presidents
MILTON HUEHN
JEROME SEHL
PHILIP YOUNG
ARMIN M. BITZER, Sec.-Treas.

Submission 4.

In Part XIX, Powers to pass by-laws

Section 377 (69) War Memorials & Patriotic Objects,
Special Undertakings

Bill 126 of the 1961-1962 Legislature removed the words
'notwithstanding any general or special Act, subject
to the approval of the Department' as a condition to

"For acquiring, erecting, altering, maintaining, operating
or managing. . . . places of amusement, arenas, auditoriums,
etc."

It is submitted that apart from War Memorials the other special
undertakings be required to be "with the assent of electors
qualified to vote on money by-laws".

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Submission 5

That municipalities be empowered to pass a by-law, with the assent
of the electors, setting a limit to permissible capital expenditures,
except on properly signed petitions for local improvements
for what constitutes a civic necessity. The words 'civic necessity' to be
determined by the Department of Municipal Affairs.

The amendment or repeal of such a by-law may be voted on from
year to year at the annual elections.

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Submission 6

That it be made a definite requirement that any lands surplus to
requirements by virtue of purchase or expropriation for necessary works be
advertised and sold only by open public tender.

Submission 7

That in municipalities where Planning Boards have been established
and appointments made by Council that the recommendations of the Planning Board
so far as the sub-division and development of residential areas be binding on
Council, except that an appeal may be made to the Department in case Council
disagrees with the Planning Board.

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Submission 8

Part III Municipal Elections SEC. 46

It is submitted that subsections (6) and (7) could be usefully
omitted.

BRIEF TO THE SELECT COMMITTEE OF THE LEGISLATURE
ON THE MUNICIPAL ACT AND RELATED ACTS

Submitted by

THE TORONTO PARKING OPERATORS' ASSOCIATION

November 6, 1962

BRIEF TO THE SELECT COMMITTEE OF THE LEGISLATURE
ON THE MUNICIPAL ACT AND RELATED ACTS

Submitted by The Toronto Parking Operators' Association.

TO: Hollis E. Beckett, Q.C.,
Chairman,
Select Committee on the Municipal Act
and Related Acts.

CHAIRMAN AND GENTLEMEN:

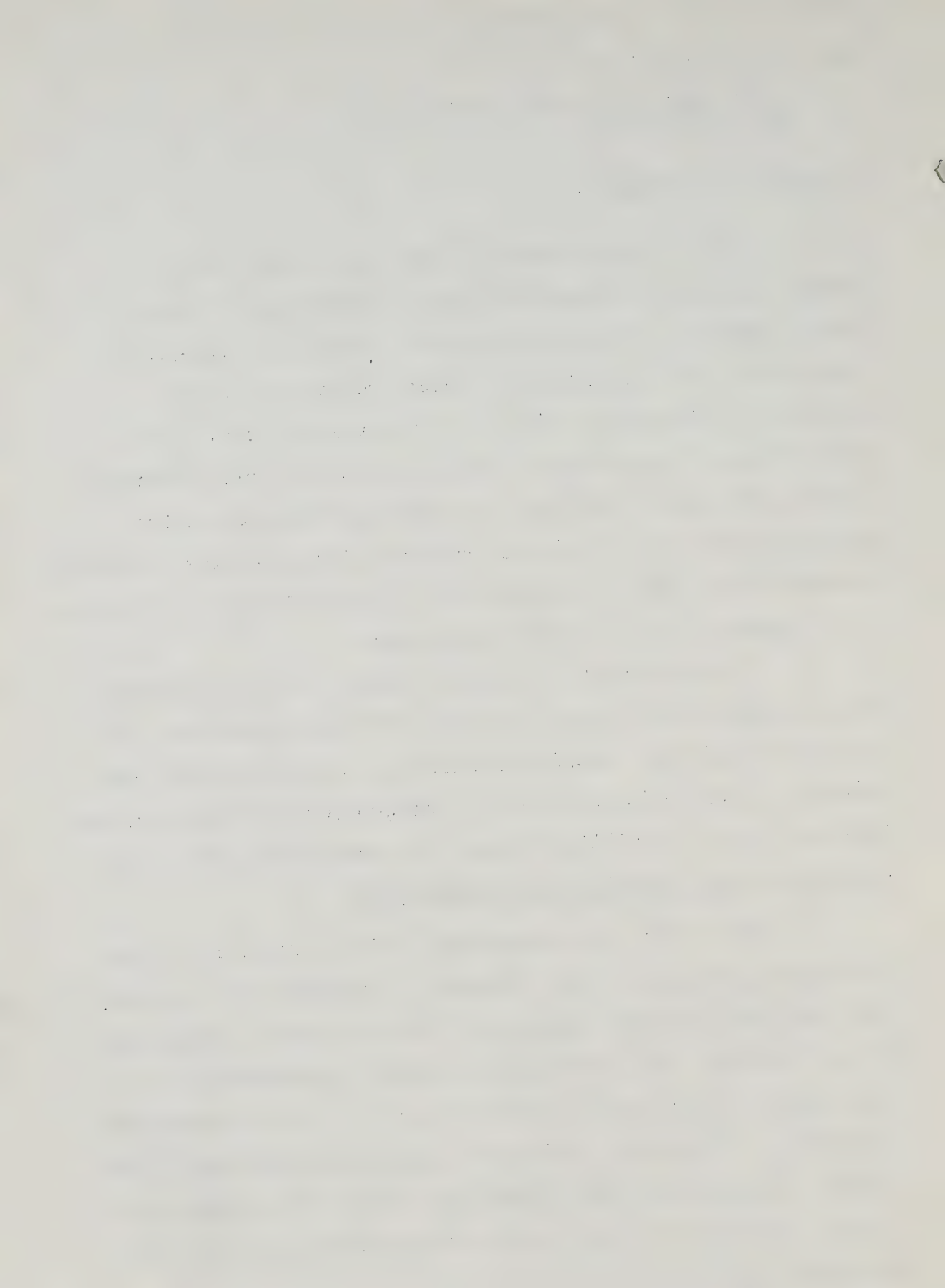
The following brief is presented by The Toronto Parking Operators' Association, which Association is incorporated under the Corporations Act of Ontario as a non-profit organization, the membership of which are engaged in the operation of parking lots in the Province of Ontario. Its members number 20 such owners and operators and this membership operates for public use about 150 public parking facilities providing about 22,000 units of parking. These parking facilities represent about 80% of the off-street parking facilities available to the general public in the Toronto area.

The investment in land and facilities by the members of this Association amounts to about forty million dollars and represents Municipal Taxation Revenue for the Municipality comprising of Metropolitan Toronto of \$200,000.00 per annum business tax, and about 1.25 million dollars per annum real estate tax.

HISTORY OF THE AUTOMOBILE PARKING BUSINESS

There have been commercial parking operations in the Province of Ontario for over 50 years. Naturally the business has developed in direct proportion to the automobile population of the Province. This development has been accompanied by a considerable build-up of the central core of all the larger urban centres in the Province. This has occurred particularly in the decade following World War II with the result that congestion of roadway traffic has become a very vital problem in these urban municipalities.

To enable the Municipality to assist in meeting the problem of providing for adequate off-street parking we have seen the growth and expansion of legislation empowering the municipalities to enact planning legislation and to provide off-street parking facilities under The Municipal Act and other Statutes.



The forerunner to the present statutory provision is found in The Municipal Act of 1944 which authorized municipalities to pass bylaws for the acquisition and establishment of parking lots "provided a fee is charged and collected for such parking." (Statutes of Ontario 1944, Chapter 39, Section 36 (11) being Section 386 (52) of The Municipal Act 1950).

Some years later the Ontario Municipal Board in a decision of October 1954 in respect of an application by the City of Toronto, authorized the borrowing of monies by municipal debenture to establish off-street parking facilities. In granting such approval the Municipal Board imposed the condition that the Municipality establish a reserve fund for the retirement of this debt and pay into such reserve fund the net revenue derived from parking meters installed by the Corporation. The said fund was by the terms of the Board Order to be applied first to the payment of interest and principal of any debt incurred for the purpose of the providing of this off-street parking to the extent that the net revenue of the Parking Authority of Toronto proved insufficient for such purpose, and secondly, for such other purpose including the acquisition and improvement of additional parking facilities as the Department of Municipal Affairs may approve. This Order was subsequently amended by the Municipal Board in 1955 so that the provisions for the disposition of the reserve fund were as follows:

- "(a) Firstly for the payment of interest and principal falling due in each year in respect of any debentures issued for the purposes of this paragraph, and
- (b) secondly, for the acquisition, establishment, laying out or improvement of additional parking lots or facilities, and
- (c) thirdly, for such other purposes as the Department of Municipal Affairs may approve."

In the years subsequent to 1944 The Municipal Act was amended to authorize municipalities to establish parking authorities and imposed certain financial restrictions upon the operations of any authorities so established.

In 1955 The Municipal Act was amended by the introduction of the present Subsection 67, Section 377, and by subsequent minor amendments this Subsection was brought down to the Act as it appears in the 1960 Revised Statutes. Subsections (e) and (f) of Subsection 67 deal with the establishment, maintenance and disposition of a reserve fund and are an important part of Subsection 67.

Subsection 68 of Section 377 has the same legislative history as Subsection 67 and in its present form the sections of paramount importance are Subsections (a), authorizing the establishment of a parking authority by Municipal Bylaw, and Section (g) requiring "the parking authority .. to charge fees rates and charges for the use of the parking facilities under its control and management so that the revenue therefrom shall be sufficient to make such parking facilities self-sustaining."

Subsections 67 and 68 are appended hereto in full.

While the legislative history of these parking provisions was evolving through The Municipal Act, legislative action was taken in respect of the City of Toronto Act in the year 1952, to amend the City of Toronto Act by the introduction of Subsection 8 to Section 3 (amongst other provisions) so that Subsection 8 then read -

"The Parking Authority shall have the power and duty to fix rates and charges for the use of any Municipal parking facility or part thereof so that the revenue of the authority shall be sufficient to make all parking facilities under its control and management self-sustaining after providing for such maintenance, depreciation and debt charges as it shall think proper."

This is the form in which the City of Toronto Act as regards Subsection 8 still takes.

PARKING AUTHORITY OF TORONTO

It is against this background of Provincial Legislation that we find an illustration of the present difficulties encountered in the control of parking authorities through the existing agencies of administrative control. In the year 1962 the City of Toronto applied to the Ontario Municipal Board for approval of debentures in the amount of 3.2 million dollars, the proceeds of which were



to be applied to the construction of an extension to the underground parking garage on the site of the Toronto City Hall. This Association entered an appearance in the proceedings before the Board and opposed the grant of the application on the simple and single ground that the Toronto Parking Authority on whose behalf the application for loan was in fact made, was not operating within the confines of the above-noted legislation, that is, The Ontario Municipal Act and The City of Toronto Act. It was alleged by this Association, and considerable evidence was introduced at a subsequent hearing to show, that the Parking Authority of Toronto's operations were not "self-sustaining" within the meaning of the above-mentioned Statutes.

By reason of the intervention in these proceedings by this Association the Chairman of the Ontario Municipal Board directed that an issue be tried to determine whether or not the Parking Authority has established such rates and charges so that the Authority's revenue shall be sufficient to make it self-sustaining.

The proceedings continued through a hearing of seven full days during which a considerable volume of evidence was taken before the Chairman of the Board, including the testimony of the City Auditor, Finance Commissioner, the General Manager of the Parking Authority and other civic officials together with the evidence of an independent auditor (Mr. Ross Skinner, C.A. of Clarkson, Gordon & Co.) engaged by this Association to review the operations of the Parking Authority in the light of the statutory provisions by other witnesses presented on behalf of this Association.

It is impossible to summarize seven days' testimony in a short brief of this type but it may illustrate the position established before the Board to refer to some limited parts of this evidence. In giving his evidence, the auditor of the City of Toronto read excerpts from his report to the Mayor and Board of Control of the City in respect of the operations of the Parking Authority in the years 1960 and 1961. The following is an excerpt from the report for the year 1960 which will illustrate the extent

to which this responsible civic official considered that the Parking Authority operations were not conducted in accordance with present law:

"As indicated in the foregoing transcript of The Municipal Act, a municipality is required to establish a reserve fund and deposit therein the net revenue derived from the operation of all parking facilities. This procedure is not strictly adhered to since the City Treasurer and the Parking Authority each has established a separate reserve fund and deposit therein their separate net revenues from parking meters and off-street parking, respectively. In view of this aspect, some consideration should be given as to whether or not it complies with the provisions of the Act.

In regard to the same matter, the Current Section of the Authority's balance sheet shows correctly the balance of the reserve from off-street parking in the amount of \$385,291.69 but this sum is on deposit in the bank together with other working capital funds. The legislation seems to imply that the Reserve Fund is to be in a separate bank account.

In view of the requirements of this legislation and the inter-relationship of the present accounting arrangements between the City and the Authority and by reason of the use of separate reserve funds as aforementioned, it is my opinion that arrangements should be made between the City and the Authority to have the surpluses from each of their separate operations transferred to one reserve fund bank account periodically during the year or, at least, at the close of each year when the respective surpluses are correctly determined."

By way of further illustration of the evidence before the Board as to the extent of failure by The Parking Authority to comply with the existing statutes relating to their operations, the evidence of the Municipal Association witnesses showed:

- (a) the accounts of the Authority made no allowance for depreciation or write-offs for leasehold improvements unlike other public authorities such as The Toronto Hydro-Electric Commission;
- (b) the accounts of the Authority showed no rental or charge in lieu of rental for lands of the City occupied by the Parking Authority and which had not been acquired by the City for this purpose;
- (c) in at least one instance the Authority neither paid rent nor reimbursed the City of Toronto for debt charges incurred by the City in acquiring lands turned over to the Parking Authority;
- (d) on the other hand where the Authority occupied lands of other public bodies such as the TTC, the CNE or Metropolitan Toronto, normal commercial rents are paid by the Authority for such use;
- (e) the extent of the subsidy in this connection according to the expert evidence of independent witnesses called by this Association amounted to \$480,000.00 a year, being 6% of land value of eight million dollars.

- (f) taking into account only the improper use by the Parking Authority of the assets owned by the ratepayers of the City, on the foregoing basis of a proper rental charge, the accounts of the Parking Authority would clearly show a loss in current operations, that is to say, revenue was insufficient to meet debt charges and all other charges and expenses incurred as a result of the operations of the Authority. In simple language, this deficiency is charged back upon the ratepayers of the City of Toronto contrary to the present legislation;
- (g) in his analysis of the accounts of the Parking Authority, the independent accounting expert testified, and his testimony was uncontradicted, that had the Authority paid all debt charges properly chargeable to its operations under the terms of the Statute the Parking Authority would have showed a deficit. Taking into account proper rent charges which should have been borne by the Authority and the full burden of all debt charges resulting from its operations the resultant deficit in the Authority accounts would amount to several hundred thousand dollars.
- (h) the independent accounting expert testified that as a result of his studies the Parking Authority of Toronto's operations could not be considered to be self-sustaining;
- (i) parking meter revenues collected on behalf of the City of Toronto showed that these revenues amounted to something on the annual average of about \$500,000.00 a year. The evidence further showed that approximately one-half of the parking meter revenue received by the City of Toronto came from parking meters installed on Metropolitan streets, that is to say, streets declared to be Metropolitan roads under the Municipality of Metropolitan Toronto Act. There appeared to be no legislative authority for the practice in Metropolitan Toronto and the City of Toronto in making these revenues available to the Parking Authority of the City of Toronto. In fact, the evidence showed that in the case of the Town of Leaside and other Municipalities, the revenue collected from the streets belonging to these other Municipalities was in fact turned over to them.

The result of all the evidence, both that submitted on behalf of the City of Toronto and that submitted on behalf of this Association, showed that the accounts of the Parking Authority produced a deficit when taking into account the proper debt and rental charges and that this deficit resulted even if the parking meter revenue were included in the computation of the results of all operations of the Parking Authority. The statute however requires the Authority to be self-sustaining from its own operations.

Faced with all the foregoing evidence and argument based thereon the Chairman of the Ontario Municipal Board reserved its decision of the Board for consideration, and in September last

delivered its decision approving of the application of the City of Toronto for authority to borrow the monies required for the underground garage extension. After noting that the Parking Authority had not paid rent for use of the considerable number of locations made available to it by the City of Toronto without any other charge than taxes the Board came to the conclusion that the question as to whether or not the Authority was self-sustaining was "a question of law which this Board does not have jurisdiction to decide". The Board thereupon declined to state a case for the opinion of the Court of Appeal as it might have done under the provisions of The Ontario Municipal Board Act, and left the question unanswered.

Under the provisions of The Ontario Municipal Board Act an Appeal lies upon a decision of the Board on questions of law and accordingly this Association applied to the Court of Appeal of Ontario for leave to launch such an Appeal. The Court of Appeal found that notwithstanding the decision of the Ontario Municipal Board the issue as to whether or not the Parking Authority is self-sustaining is a question of law, the question was a question of fact and therefore no right of appeal lay. By reason of this finding by the Ontario Court of Appeal no further Appeal could be taken and the result is therefore, that notwithstanding a very considerable and expensive hearing the state of the law as it now stands has not been interpreted by either the Municipal Board or the Courts, and the members of this Association, being the principal parties concerned in the matter, are left entirely without a remedy.

Much more serious is the fact that if the ratepayers of Toronto and other urban municipalities in the Province are improperly bearing a burden not intended to be placed upon them by this Legislature there appears to be no forum where this matter can be determined. Whether or not this unsatisfactory state of affairs is necessarily the result, if similar actions are brought in the future the fact remains that the statutes purporting to authorize and regulate the establishment and operation of Municipal Parking Authorities have been construed with

opposite results by the Ontario Municipal Board and the Ontario Court of Appeal so that without expensive litigation in the form of an action against a municipality the present legal uncertainties cannot be clarified.

LEGISLATIVE CONSIDERATIONS

Apart altogether from the unsatisfactory state of the present law relating to this matter there is the much larger question as to what is the proper policy to be adopted by the community with respect to the provision of off-street parking in urban areas of this Province. Stated in another way, the issue now before this Committee in our respectful submission is -

To what extent should public monies be expended to complement, supplement or replace parking facilities provided in the ordinary operation of a free enterprise community by private citizens?

At the present time in the larger urban concentrations in this Province more than 80% of off-street parking is provided by private agencies, and less than 20% is provided by the Municipal Parking Authorities. Notwithstanding this very important fact there would appear to be no assurance in the present statute that the bulk of the present parking facilities can continue to be operated by the private citizens of the Province in competition with the subsidized operations of municipal agencies, so that the continued existence of the bulk of present parking facilities is now placed in jeopardy under the law as it presently stands.

Furthermore, present Statutes neither establish or encourage the establishment of an overall transportation pattern or policy wherein the proper complementary roles are accorded to public transportation facilities, highway facilities and off-street parking facilities. Neither is there any role provided by the Legislation for the Department of Planning and Development to lead or supervise the municipalities in the development of any such broad concept, although in other municipal fields the Department does play such a role.

In the result the ratepayer and the urban municipalities are called upon to subsidize either

- (a) those persons who by reason of the geographical location of their home or place of work are able to park at Municipal facilities for charges less than those necessary to operate those facilities without burden upon the ratepayers, or
- (b) the passengers on the public transit system,
or both.

This inequity is further aggravated by the fact that the majority of commuting patrons of the Municipal parking facilities in the urban core come from suburban areas which do not contribute to the subsidy provided by the ratepayers in the urban core. Secondly, the result of such subsidized operation is that the tax paying private organizations operating parking facilities are called upon to subsidize their competition.

The extent and severity of this subsidization and unfair competition is best illustrated by the present situation prevailing in regard to the new underground parking garage opened by the Parking Authority of Toronto over the University Subway in downtown Toronto. The Parking Authority in order to encourage the general public to make use of the facility apparently offers some free daytime parking and offers daily and monthly parking at rates which are one-third lower than nearby commercial facilities. The evidence in the aforementioned proceeding before the Ontario Municipal Board clearly showed that this facility would not pay its way in the foreseeable future and would in fact be a very serious charge upon the general operations of the Authority (an anticipated loss without any charge for rent of about one hundred thousand dollars per year). This operation is a direct charge on the ratepayer of Toronto and seriously threatens existing commercial parking facilities. This result, anomalous and inequitable as it is, is apparently permissible under the present state of the law.

This situation raises important fundamental issues which must be resolved by the Legislature in order to establish a broad comprehensive, equitable and efficient legislative framework within which the modern communities, particularly large urban

concentrations may grow and develop in the transportation field in the same way that Municipal development is proceeding in all other fields. This means that we must promote the mutual support and encouragement of private enterprise and the Municipal agencies in the off-street parking business. Any other policy will lead inevitably to the displacement of the commercial parking facilities by the Municipal agencies and the cost to the ratepayer will be enormous. In fact if this result comes about public sources of off-street parking will not meet demand and the parking and traffic crisis will return.

Without attempting to discuss in an abbreviated form these large issues this Association seeks to emphasize to this Committee and through this Committee to the Legislature of Ontario:

- (a) that it is unfair and unwise to establish at the community's expense a business which operates on direct or indirect subsidies and at a loss in competition with tax paying members of the community;
- (b) that the community interest is not served by the provision of the basic parking requirements of a municipality at the expense of the general ratepayers rather than at the expense of those making use of the parking facilities so created;
- (c) that a healthy automobile parking facility business serving the best interests of the public can only develop under a fair and equitable plan balancing the interest of both publicly owned and privately owned facilities;
- (d) that if parking meter revenues are indiscriminately made available to continued expansion of uneconomic facilities rather than to pay the cost of existing facilities, the situation can only deteriorate and at an accelerating pace until the point is reached that the only source of off-street parking will be through a public authority operating as a general charge and as an increasing burden upon the ratepayers of the community;
- (e) that in the case of Toronto, Ottawa and Hamilton at least, free and subsidized parking has drained passengers from the public transit systems to the point where public transit is operating at a substantial and accelerating loss;
- (f) that subsidized parking acts as a magnet attracting to the road system persons who should be utilizing the public transit system thereby exaggerating the demand for expensive expressways, (for which the Province of Ontario provides at least one-half of the cost).

It may be of interest to this Committee to point out that it is the universal practice both in England and in the United

States of America that where public lands are used for off-street parking facilities such facilities are operated by private enterprise for the Government Authority in question, on public tender. The economics, efficiencies and safeguards of this system are obvious and have been proven in these countries. Furthermore, none of the controversy we have experienced in Ontario in this field exists neither in England or the United States.

By a notice dated the 4th October, 1962 the City of Toronto made an application to the Legislature of Ontario for the passage of special legislation -

- (a) to permit persons who are not residents and ratepayers of Toronto serve as members of the Parking Authority of Toronto, and
- (b) to permit the City of Toronto to enter into agreements with property developers whereby the developer may make payments to the City of Toronto in amounts specified by the City in return for which the developer will not be required to provide the off-street parking specified in zoning bylaws. This is proposed in order to prevent the creation of competitive private parking facilities in the vicinity of the existing Parking Authority operations.

We respectfully urge that this Committee recommend that the legislative action requested by the City of Toronto be deferred until the larger issues of public parking facilities as discussed herein are resolved.

RECOMMENDATIONS:

The Toronto Parking Operators' Association recommends:

1. The Legislature establish for the larger urban areas of the Province machinery for the creation of a comprehensive transportation plan incorporating therein the appropriate provisions for public transportation, road systems and off-street parking.
2. Such comprehensive legislation should by expressed terms recognize the importance to the community of the role of the private enterprise off-street parking facilities in the solution of the parking problem in the urban areas.
3. There should be no discrimination between the legislative treatment accorded municipally operated facilities and the private

enterprise facilities, and any advantage accorded to the former should be assured to the latter.

4. The Legislation should clarify present ambiguities and omissions so as to ensure that rates charged by public authority must be such

- (a) as to permit the authority to operate without subsidy direct or indirect from the ratepayers, and
- (b) as to prevent the public authority from competing unfairly with tax paying free enterprise facilities which presently comprise the bulk of public parking accommodation.

5. As originally contemplated by the Legislature, parking meter revenue should be kept in a reserve fund within the control of the Municipality so as to be available as a constant protection to the ratepayers against liability for borrowings on behalf of the public authority for the establishment of off-street parking. Such funds should be consolidated in this reserve fund with the proceeds from the operation of off-street parking facilities so that the elected representatives of the ratepayers will be constantly in control of the programme for the acquisition of additional sites and additional borrowings for that purpose.

6. Members of Municipal parking agencies should be required to be ratepayers and residents of the Municipality in question.

7. Where Municipalities establish off-street parking facilities such Municipalities should be encouraged to avail themselves of the economics of the economies and efficiencies to be derived by placing the operation of such facilities under operation by private enterprise, by public tender.

8. Finally the Statute should enumerate in proper detail the specific conditions required to protect both the ratepayers and the private enterprise parking industry against unfair advantages being accorded to the public authority. For example:

- (a) A requirement that the Authority pay fair market rental for any public lands occupied by the Authority, or for any other facilities made available by the Municipality to the Authority;
- (b) The Authority pay its full share of administrative costs entailed by the operations of the Authority, including the cost of public borrowings;

- (c) Municipal licences and permits, use of public boulevards etc., should be made available to public and private agencies on the same basis. This condition should be made applicable to municipalities and municipal agencies for the protection of the public;
- (d) The highway sign system indicating off-street parking facilities should apply to all off-street parking facilities;
- (e) If property developers are to be permitted to contract out of parking requirements of zoning bylaws privately owned parking agencies should have an opportunity to participate in such a plan on an equal footing with any municipal agency.

The essence of our position is that it has always been the intent of the Legislature that public parking authorities should be required to be self-supporting so that the public agency does not compete unfairly with the tax payers of the community and should not be a burden on the ratepayers. Present legislation has been shown to be inadequate to carry out this intent, and, accordingly, we respectfully make the foregoing recommendations. Because of the complex nature of present Municipal Legislation we have left to the Legislative Draftsman the actual Legislative provisions necessary to give effect the foregoing recommendations.

All of which is respectfully submitted

TORONTO PARKING OPERATORS' ASSOCIATION

November 7th, 1962.

APPENDIX TO BRIEF TO THE SELECT COMMITTEE
OF THE LEGISLATURE ON THE MUNICIPAL ACT
AND RELATED ACTS

67. For acquiring, establishing, laying out and improving land, buildings and structures where vehicles may be parked, and for erecting buildings or structures for or in connection with the parking of vehicles in, on or under any land vested for any purpose in a municipality, and for leasing such land, buildings or structures, and for regulating, supervising and governing the parking of vehicles therein or thereon, provided a fee is charged and collected for such parking.

- (a) A by-law under this paragraph may define vehicle for the purposes of the by-law.
- (b) Land acquired or established for the parking of vehicles under this paragraph and buildings and structures acquired or erected under this paragraph shall be deemed to be a highway for the purposes of paragraph 7 of section 476 and the said paragraph 7 applies to such land, buildings and structures.
- (c) A by-law under this paragraph may set aside and designate on any land vested for any purpose in a municipality entrances and exits to or from any underground parking facilities for the use of persons or vehicles, provided no such entrances or exits shall be set aside on a connecting link or extension of the King's Highway without the approval of the Department of Highways.
- (d) A by-law under this paragraph may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking provisions of the by-law have been contravened and if payment is not made in accordance with such procedure section 482 applies.
- (e) Where a municipality establishes a parking lot or lots or erects buildings or structures therein, thereon or thereunder for such purposes or constructs underground parking facilities in the municipality at the expense of all the ratepayers of the municipality, the municipality shall establish a reserve fund and deposit therein the net revenue derived from the operation of all parking facilities operated by or on behalf of the municipality or leased by or on behalf of the municipality for parking purposes, including parking meters on highways.
- (f) Such reserve fund shall be applied,
 - (i) firstly, for the payment of interest and principal falling due in each year in respect

of any debentures issued for the purposes of this paragraph, and

- (ii) secondly, for the acquisition, establishment, laying out or improvement of additional parking lots or facilities, and
 - (iii) thirdly, for such other purposes as the Department may approve.
- (g) (i) A by-law passed under the authority of this paragraph may provide, with the approval of the Municipal Board, that the capital cost thereof, or any part thereof, the annual rental payable under a lease or any operating deficit in the previous year shall be levied against the lands in a defined area in the municipality that in the opinion of the council derive special benefit therefrom, and in that case the by-law shall have appended thereto a schedule establishing the portion of the cost that shall be levied against each parcel of land in the defined area.
- (ii) The entire cost chargeable to lands in the defined area shall be equitably apportioned among all the parcels in accordance with the benefits accruing to a parcel from the establishment of the parking lot or in the proportion that the assessment of each parcel bears to the total assessment of the parcels in the defined area.
 - (iii) Where the capital cost or a part thereof is to be levied as provided in subclause i, the council shall give notice of its application to the Municipal Board for approval of the by-law to the assessed owner of each parcel of land in the defined area.
 - (iv) The Municipal Board shall not approve the by-law if a petition objecting to the levy of the capital cost against the defined area, signed by at least two-thirds of the assessed owners representing at least one-half of the assessed value of the land in the area, is filed with the Board at or prior to the hearing of the application.
 - (v) Where a by-law establishing a parking lot provides for levying the capital cost thereof against land in a defined area, the net revenue derived from the operation of such parking lot shall be used to reduce the special levy to be made against the land in the defined area under subclause iii in the proportion the special levy made against each parcel of land bears to the total special levy, and after the debentures have been retired the net revenue derived from the operation of such parking lot shall be paid into the reserve fund set up under clause e or, if no reserve fund has been set up under

clause e, a reserve fund shall be set up for the same purposes and such net revenue paid into the fund and applied in accordance with clause f. 1955, c. 48, s. 37 (4), part; 1957, c. 76, s. 20 (6-9); 1959 c. 62, s. 17 (5,6).

68. For establishing an authority to be known as "The Parking Authority of the of", and may entrust to the parking authority the construction, maintenance, control, operation and management of municipal parking facilities within the municipality.

- (a) A parking authority established under this paragraph is a body corporate and shall consist of three members, each of whom shall be a person qualified to be elected as a member of the council of the municipality and shall be appointed by the council on the affirmative vote of at least two-thirds of the members of council present and voting, and the members so appointed shall hold office for three years and until their successors are appointed.
- (b) No member of the council is eligible to be appointed a member of the parking authority.
- (c) Where a vacancy in the parking authority occurs from any cause, the council shall appoint immediately a person, qualified as set out in this section, to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.
- (d) Any member is eligible for re-appointment on the expiration of his term of office.
- (e) The members may be paid such salary or other remuneration as may be fixed by by-law of the council with the approval of the Department.
- (f) Upon the passing of the by-law establishing the parking authority, all the powers, rights, authorities and privileges conferred and duties imposed on the municipal corporation by any general or special Act with respect to the construction, maintenance, operation and management of municipal parking facilities shall be exercised by the parking authority, but subject to such limitations as the by-law may provide.
- (g) The parking authority shall fix rates and charges for the use of parking facilities under its control and management so that the revenue therefrom shall be sufficient to make such parking facilities self-sustaining.

- (h) The parking authority shall submit to the council its estimates for the current year at the time and in the form prescribed by council and make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to providing the money for the purposes of the parking authority and, when money is so provided by the council, the treasurer of the municipality shall, upon the certificate of the parking authority, pay out such money.
- (i) On or before the 1st day of March in each year, the parking authority shall submit its annual report for the preceding year to council including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.
- (j) The municipal auditor shall be the auditor of the parking authority and all books, documents, transactions, minutes and accounts of the parking authority shall, at all times, be open to his inspection.
- (k) The power, right, authority and privilege of the council to raise money by the issue of debentures or otherwise for the acquisition of lands or construction of buildings shall not be transferred to the parking authority.
- (l) Upon the repeal of the by-law establishing the parking authority, the parking authority ceases to exist and its undertaking, documents, assets and liabilities shall be assumed by the municipality. 1955, c. 48, s. 37 (4), part; 1957, c. 76, s. 20(10).

Add to brief submitted by the TORONTO PARKING OPERATORS ASSOCIATION,
dated November 6, 1962 the following recommendation:

"that the advantage under Section 43 (1) (b) of the Assessment
Act either be withdrawn from the parking authorities or extended
to all off-street parking facilities including those operated by
private enterprise."

Re letter dated November 9, 1962, from Messrs. Robertson, Lane,
Perrett, Frankish & Estey,
Barristers and Solicitors,
Suite 1111,
111 Richmond Street West,
TORONTO 1, Ontario.

SUBMISSIONS TO
THE SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

by

THE TRUST COMPANIES ASSOCIATION OF CANADA
ONTARIO SECTION

November 1962.

THE TRUST COMPANIES ASSOCIATION OF CANADA

302 BAY STREET
TORONTO 1, ONTARIO

ONTARIO SECTION

November 1, 1962

TO THE SELECT COMMITTEE ON THE MUNICIPAL ACT AND RELATED ACTS
GENTLEMEN:

The Trust Companies Association of Canada through its Ontario Section welcomes the opportunity to make submissions to this Select Committee and to draw attention to certain anomalies which exist at the present time with respect to the deposit and investment of funds under the Municipal Act, the Ontario Water Resources Commission Act and Regulations made under the Homes for the Aged Act.

This Association is comprised of 27 trust companies with 220 offices located in large and small centres in every province of Canada. The Ontario Section speaks for 18 member companies, most of whom have head offices in this province.

Trust companies in Ontario carry on business under provincial authority and their operations are under the supervision of the Registrar of Loan and Trust Corporations of Ontario. They are one of the largest media in Canada for the deposit of savings and the guaranteed investment of funds.

THE CANADIAN ASSOCIATION OF
MOUNTAIN CLIMBERS

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The annual return for 1961 by member companies to governmental authorities showed a total of \$1,418 million of savings and guaranteed investments in the care of trust companies. As managers of the funds of individuals and corporations, Canadian trust companies have had a broad experience over many years. Estates, trusts and agency funds administered at the end of last year amounted to over \$8 billion. Paid up capital and reserves totalled over \$185 million.

In view of the confidence placed in these Ontario licensed financial institutions, as indicated by wide public use of their services, this Association wishes to draw attention to the provisions of certain Acts and Regulations with respect to the deposit and investment with trust companies of the funds of municipal and other provincial authorities.

THE MUNICIPAL ACT

Section 221 provides for the deposit of municipal funds only in chartered banks of Canada.

Sections 298(2) and 313 permit municipal moneys raised for reserve or sinking funds to be invested in Guaranteed Investment Certificates of trust companies.

Section 302 provides that moneys not required for immediate use may be invested only in Government of Canada or Province of Ontario treasury bills or short term bonds.

THE ONTARIO WATER RESOURCES COMMISSION ACT

Section 20 (as amended by 1961-2 Chap. 99 section 4) provides that the Commission shall deposit any moneys in its hands in one or more chartered banks or a Province of Ontario

Savings Office, and may invest in bonds, debentures or other securities of or guaranteed by Canada or any province of Canada or the United Kingdom or in securities of the U. S. A.

Section 43(3) (as amended by 1961-2 Chap. 99 section 12) provides that all amounts placed by the Commission to the credit of all reserve accounts under sub-section 1 shall be deposited by the Commission as a consolidated fund in a chartered bank or Province of Ontario Savings Office.

Section 44(1) (as amended by 1961-2 Chap. 99 section 13) provides that all moneys received by the Commission from all municipalities under agreements pursuant to section 40 shall be deposited by the Commission as a consolidated fund (Ontario Water Resources Commission Debt Retirement Account) in a chartered bank or Province of Ontario Savings Office.

HOMES FOR THE AGED ACT

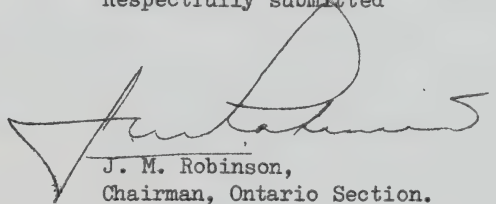
Regulations 31(1) provides that a municipality shall establish and maintain a trust account in which moneys of residents held for safekeeping by the Superintendent shall be deposited in a bank or Province of Ontario Savings Office.

In the instances referred to, the various authorities are precluded from depositing or investing monies to the maximum advantage of the public and are unable to benefit from the modern facilities and higher interest rates offered by trust companies in Ontario on demand deposits and guaranteed investment certificates (with maturities ranging from a few days to several years).

It is pointed out further that monies deposited with a trust company qualify as trust funds and that guaranteed investment certificates of trust companies are authorized investments under the Trustee Act of Ontario, with return of interest and principal in both cases guaranteed by reserves of the company.

This Association respectfully suggests that it is the duty of public bodies to obtain the most favourable terms available in the deposit and investment of funds in their charge. We submit, therefore, that in the public interest consideration should be given by the Ontario Government to amendment to the Acts and Regulations referred to so that clear authority of public bodies is established to deposit monies with trust companies and to invest funds in their guaranteed investment certificates where maturity takes place before such monies are required by the municipality.

Respectfully submitted



J. M. Robinson,
Chairman, Ontario Section.

WRS/fk

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26



W. E. Evans

URBAN DEVELOPMENT INSTITUTE
(Ontario Division)

**BRIEF TO SELECT COMMITTEE ON
THE REVIEW OF
THE MUNICIPAL ACT, ETC.**
September 1961

URBAN DEVELOPMENT INSTITUTE
(ONTARIO DIVISION)

A SUBMISSION TO THE SELECT COMMITTEE
OF THE ONTARIO LEGISLATURE APPOINTED
TO ENQUIRE INTO AND REVIEW THE MUNIC-
IPAL ACT OF THE PROVINCE AND RELATED
ACTS INCLUDING THE PLANNING ACT

The Urban Development Institute (Ontario Division) appreciates the opportunity to express its views before this Select Committee of the Ontario Legislature.

The Members of the Institute, among whom are some of the most experienced land developers, consulting engineering and town planning firms in the Province, are of the opinion that the development which has taken place in many parts of Ontario within the last fifteen years, and may be expected in the next decade, makes it appropriate that all legislation dealing with land development and planning be reviewed in order to provide a system better able to cope with present conditions and those to be anticipated.

It will be noted that this submission does not attempt to deal with all of the legislation under review. Nor does it propose to offer specific amendments to the Planning Act and other legislation that would be required to carry out these suggestions. If requested, the Institute will be pleased to assist in a detailed study of the required amendments.

This submission will deal with the following matters:

ADMINISTRATION OF PLANNING
MUNICIPAL RE-ORGANIZATION
THE ONTARIO MUNICIPAL BOARD ACT
SECTION 28 OF THE PLANNING ACT

1. The first part of the paper is devoted to a study of the properties of the function $f(x)$ defined by the equation

$$f(x) = \int_0^x \frac{1}{1+t^2} dt$$

for $x \in \mathbb{R}$. It is shown that $f(x)$ is an odd function and that $f(x) \in C^1(\mathbb{R})$. Moreover, it is proved that $f(x)$ is a strictly increasing function and that $f(x) \in C^2(\mathbb{R})$.

2. In the second part of the paper, we study the properties of the function $g(x)$ defined by the equation

$$g(x) = \int_0^x \frac{1}{1+t^4} dt$$

for $x \in \mathbb{R}$. It is shown that $g(x)$ is an even function and that $g(x) \in C^1(\mathbb{R})$. Moreover, it is proved that $g(x)$ is a strictly increasing function and that $g(x) \in C^2(\mathbb{R})$.

3. In the third part of the paper, we study the properties of the function $h(x)$ defined by the equation

$$h(x) = \int_0^x \frac{1}{1+t^6} dt$$

for $x \in \mathbb{R}$. It is shown that $h(x)$ is an even function and that $h(x) \in C^1(\mathbb{R})$. Moreover, it is proved that $h(x)$ is a strictly increasing function and that $h(x) \in C^2(\mathbb{R})$.

4. In the fourth part of the paper, we study the properties of the function $k(x)$ defined by the equation

$$k(x) = \int_0^x \frac{1}{1+t^8} dt$$

for $x \in \mathbb{R}$. It is shown that $k(x)$ is an even function and that $k(x) \in C^1(\mathbb{R})$. Moreover, it is proved that $k(x)$ is a strictly increasing function and that $k(x) \in C^2(\mathbb{R})$.

5. In the fifth part of the paper, we study the properties of the function $l(x)$ defined by the equation

$$l(x) = \int_0^x \frac{1}{1+t^{10}} dt$$

for $x \in \mathbb{R}$. It is shown that $l(x)$ is an even function and that $l(x) \in C^1(\mathbb{R})$. Moreover, it is proved that $l(x)$ is a strictly increasing function and that $l(x) \in C^2(\mathbb{R})$.

6. In the sixth part of the paper, we study the properties of the function $m(x)$ defined by the equation

$$m(x) = \int_0^x \frac{1}{1+t^{12}} dt$$

for $x \in \mathbb{R}$. It is shown that $m(x)$ is an even function and that $m(x) \in C^1(\mathbb{R})$. Moreover, it is proved that $m(x)$ is a strictly increasing function and that $m(x) \in C^2(\mathbb{R})$.

7. In the seventh part of the paper, we study the properties of the function $n(x)$ defined by the equation

$$n(x) = \int_0^x \frac{1}{1+t^{14}} dt$$

for $x \in \mathbb{R}$. It is shown that $n(x)$ is an even function and that $n(x) \in C^1(\mathbb{R})$. Moreover, it is proved that $n(x)$ is a strictly increasing function and that $n(x) \in C^2(\mathbb{R})$.

1. ADMINISTRATION OF PLANNING:

For all practical purposes most of the planning that has been done in the Province to date has been confined to the boundaries of the municipality in question. The people involved have given practically all of their consideration to purely local problems. Of necessity, in many instances they have been principally concerned with assessment matters and ratios. As a partial result, it often happens that the designated use of land has been distorted to suit a forecast of assessment requirements and without regard to topography, drainage, environment, real need, etc.

It is the contention of the Urban Development Institute that better planning would result if the responsibility of the Minister of Municipal Affairs - as the Minister of Planning - were to be confined to the general problems and policies of land-use, including those of the Province as a whole, and all other matters having to do with planning were under the jurisdiction of Regional or Area Planning Boards.

In this connection it is advocated that the Province be divided by the Minister into Planning Areas or Regions. The boundaries and sizes of these Regions would depend upon many considerations, including municipal boundaries; drainage basins; traffic arteries; economic interdependability; geographical boundaries; Metropolitan incorporations and concepts; present land-use; and the suitability for various types of use and development.

Following the division of the Province into Planning Regions, it would then be left to the Municipalities within each Region to appoint a Regional Planning Board, with exclusive jurisdiction over the lands within the Region. The responsibility of each Planning Board would be:

- (a) To prepare an Official Plan for the Region, which would be general in character and would

show the various land uses within the Region, together with the present and future main traffic arteries, transportation facilities, trunk services and other general features. The functions of this Official Plan would be subject to the approval of the Minister in order to be co-ordinated with the corresponding policies of the neighbouring Regions and the Province as a whole.

- (b) To deal with draft plans of subdivision and conditions to be attached thereto. These conditions should probably be subject to review by the local Council, subject to a right of appeal from its decision to the Ontario Municipal Board. This would tend to make more uniform the conditions of approval of plans of subdivision for all of the lands in the Region.
- (c) To deal with all matters of zoning within the Region, subject again to review by the Municipal Council and an appeal therefrom to the Ontario Municipal Board. In this connection it might be desirable that the Municipal Council could only interfere in matters of zoning on a two-thirds vote of the members of the Council.

Before the finalization of the Official Plan, and before the approval of subsequent draft plans of subdivision, the Regional Planning Board would be required to consult with, and where necessary obtain the approval of, all Provincial, Regional and local Departments, Boards, Commissions and Agencies affected.

LOCAL PLANNING BOARDS WOULD DISAPPEAR:

It is to be noted that all of the present functions of Local Planning Boards, and their responsibilities, would be vested in the Regional Planning Boards. The Institute believes that by removing zoning and planning from local influences, better and

more objective planning would result. It is, however, appreciated that some matters of detail should be dealt with at the local level. This could be accomplished by the establishment of Branch Planning Offices throughout the Region. These offices would be purely administrative and would be responsible only to the Regional Planning Board.

2. MUNICIPAL RE-ORGANIZATION

(a) To be considered because of Regional or Area Planning:

It may be that Regional Planning would result in the location of more industrial and commercial assessment in some municipalities than in others. One of the main benefits to be derived from Regional Planning is the removal of assessment as a factor in planning decisions. Under the present system, of necessity, each Municipality must endeavour to see that it obtains as favourable a ratio as possible between residential and other forms of assessment. The result has often been the location of industry in areas more suitable for other uses. The problem thus arising from Regional Planning could be solved in one of the following three ways, or a combination of two or more of them:

- (1) Commercial and industrial assessment and/or the municipal taxes arising therefrom could be pooled on a Regional or Provincial basis and re-distributed among the municipalities on a per capita basis.
- (2) The Municipalities could be relieved of educational and social service costs to a greater degree than at present.
- (3) Municipal governments could be consolidated so that each Region would have one governing body.

(b) To be considered because of present and changing conditions:

The Institute believes that consideration should be given to the reduction by consolidation of the numbers of municipalities. Recognition is given to the fact that, particularly in rural areas, it is often better that local government be close to the people

On the other hand, in urbanized areas, most of the reasons for the establishing of local municipalities no longer apply. Many of these Municipalities have, to a large extent, lost their identity with the disappearance of the recognizable features of their boundaries. A large portion of their citizens no longer feel any allegiance to a local municipal Government, but, in most instances, consider themselves residents of the larger area. Because of modern transportation facilities and the requirements of modern municipal services, groups of Municipalities have become inter-dependant.

It is the belief of the Members of the Institute that a great number of the problems encountered in smaller municipalities within the last few years have stemmed from the fact that these smaller municipalities are unable to afford the employment of experienced and trained planners, engineers and building department staff. Municipalities were all organized at a time when there was not the present need for this type of assistance. Now that such a need has increased, many of them are unable to afford the employment of the properly trained personnel. If such Municipalities were joined with their neighbours, or a group of their neighbours, there would be sufficient tax revenue available to meet these expenses. It is therefore suggested by the Institute that serious consideration should be given to the consolidating or amalgamating of groups of Municipalities in order that better and more efficient service can be given in matters affecting expansion and development.

3. ONTARIO MUNICIPAL BOARD ACT:

Section 94 of the Ontario Municipal Board Act should be amended so that the powers of the Lieutenant-Governor-in-Council to vary or rescind an order or decision of the Ontario Municipal Board shall not apply to planning, zoning and land development matters.

4. SECTION 28 OF THE PLANNING ACT:

This Section represents that portion of the Act which deals with the approval of draft plans of subdivision, outlines the producedures adopted with regard to the same, and authorizes subdivision agreements. It further deals with the imposing of conditions to such approval.

One of the principal causes for the present high cost of building lots is the amount of capital required by the Municipality to be spent by the Developer in the installing of municipal services or in contributing toward the cost of their installation. These amounts are part of his costs of producing a lot and are passed on by him, through the builder, to the ultimate purchaser. If the requirements of the Municipalities were reduced to a more reasonable level, and if the uncertainties and delays which surround them and the inequities pertaining to the whole development field, were removed, the Members of the Institute believe that a considerable reduction in the price of building lots would result.

In suggesting that the approval of draft plans and the conditions to be attached thereto should be the responsibility of a Regional Planning Board, the Institute realizes that Section 28 of the Act would need to be amended to the extent required so that such Boards would assume the responsibilities and perform the functions delegated to the Minister therein. The suggested changes in Section 28 which follow below do not take this into consideration.

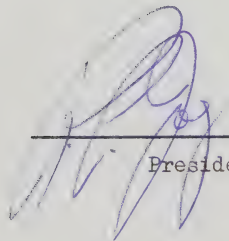
If it was the intention of the Legislature in enacting the present subsection 5 of Section 28 that the Minister should have unlimited discretion to impose such conditions to his approval of plans of subdivision as he thinks advisable, we feel that such legislation is objectionable in that it is ~~wrong~~ in principle. It is further objectionable in that it results in uncertainty on the part of both the Municipality and the Developer as to what may be required. The Subsection should therefore be amended:

- (a) To specify and limit the boundaries within which such discretion is to be exercised;
- (b) To codify to the greatest possible extent the respective responsibilities of the owner and the municipality in developing land.

Subsection # 6 would be based on the raw land value of the lands to be subdivided. Funds collected under this Subsection would be retained and used exclusively for the purchase of lands for parks.

- vi. The owner would be adequately compensated for lands taken for road widenings beyond those normally required because of the development of the immediate area.

All of which is respectfully submitted.



President

REFERENCE TO
CERTAIN ASPECTS OF THE PLANNING ACT
R.S.O. 1960
prepared for
THE SPECIAL COMMITTEE ON THE MUNICIPAL ACT & RELATED ACTS
by
JOHN REESOR WILLIAMS
Barrister & Solicitor
4th October 1962

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P A R T I - INTRODUCTION

The Planning Act of Ontario Revised Statutes of Ontario, 1960, by its very title clearly implies its purpose and intent. One definition that has been given to the word "plan" is "an arrangement of means or steps for the attainment of some object."

By this definition a plan, to be valid, must involve the implementation today of some project or undertaking that will ensure fulfillment of future purposes or needs. In other words, action today will ensure realization of projected needs and requirements in the future.

It is surely with a mind to this definition as applied to the orderly development of our land resources that The Planning Act (hereinafter referred to as "the Act") was put into legislation. With allowance for a general population expansion in our country, as well as an appreciation of changing living patterns of our society, our legislators in their wisdom foresaw the need to provide some measure of protection or security to people locating in our rapidly expanding cosmopolitan areas.

With these areas steadily increasing in population the availability of land resources has become inversely affected. The increased density of population for any given land area is bound to result in the availability of land only at a premium. In order to protect the interests of the individual or group of individuals who, under this situation, live in close proximity to each other, the development and utilization of land, therefore, must be carried out in an orderly fashion. The relative stability of land values and land use must be assured to the individual home owner to protect his investment and maintain the

community environment into which he voluntarily placed himself and his family. Accordingly, the development of land resources must be carried out in such a manner as to meet immediate needs and requirements of the original inhabitants of any given plan of sub-division while guaranteeing stability of land use and values into the foreseeable future.

In the high density population areas such as exist in Metropolitan Toronto, the area municipalities have found need to invoke the provisions of Parts II and III of The Planning Act dealing with sub-division control and restricted area and building by-laws respectively. The area municipalities have found need to control the layout of whole plans of sub-division such as to be compatible with the existing utilization of contiguous subdivisions while contributing to the orderly development of adjacent undeveloped lands. They have also found it necessary to regulate and restrict the use of land and erection or use of buildings within these plans of sub-division.

Notwithstanding these stringent controls and regulations, the Act makes adequate provision for any interested party to make application for amendment to zoning by-laws as laid down by an area municipality or to an official plan as established by the Minister of Municipal Affairs. The power to deal with any application for re-zoning of land is entrusted to the governments of local municipalities. It is in this area that the Act, and the local governments who are charged with administration of the Act, have failed to provide adequate and necessary protection to the individual

homeowner taking up residence in urban or cosmopolitan areas. The true intent and purpose of the Act, as envisaged by its creators, if one is to take the wording of the Act at its face value, has not been fully realized.

P A R T II - THE PROBLEM

The crux of the problem lies in the failure of the Act to fulfill its recognized aims, either by reason of the general wording of Act, failing as it does to deal with specific problems, or by reason of the inability of local governments to deal in a consistent manner with re-zoning application through lack of direction under the Act.

One leading American technical consultant on land utilization problems * sees the problem in the following terms: "Official planning personnel are often hogtied by political pressures that prevent them from doing the competent professional work of which they are capable. After all, they are salaried personnel who need their jobs to live. They cannot stick their necks out very far in opposition to influential self-interested groups. Unless citizens as a whole, with no private axes to grind, are alert as to how their community should grow,

* Higbee, Edward: The Squeeze, William Morrow and Co., N.Y. 1960, Page 130

they must not be so naive as to expect much from hired planners who understand only too well where the power lies. Most professional planners could draw marvellous patterns for the future. Almost everyone who takes pride in his talent has filing cabinets full of excellent blue-prints that never will be executed because they either run counter to too many selfish interests, or do not promote the ambitions of influential parties. Civic plans are human instruments, and maps easily can be made to favour one man and penalize another while having the superficial look of scientific impartiality. Not a few zoning maps have been drawn with such schemes in mind, which is why they are so often ineffective or worse. Some actually hobble a community just to steer economic growth where interested sponsors own the land. The community which thinks that because it has zoning therefore its future is secure is living in a dream world." Whereas specific references in this quotation may or may not apply to our own jurisdiction, nevertheless the basic context of the statement most certainly has application to the problem.

The pre-amble to sub-section 4 of Section 23 of the Act recites the basic or underlying principle of the Act, when it states: "In considering a draft plan of sub-division, regard shall be had, among other matters, to the health, safety, convenience and welfare of the future inhabitants." The "future inhabitants", of course, will be the original settlers in the sub-division. The needs of these people appear, therefore, to be of prime consideration to the Minister before approving a plan of sub-division.

The local government of the municipality, as an agent of the Province, seeks to further protect the vested interests of the individual purchasers of lands subject to sub-division control by restricting more specifically the use of the land and the type and use of buildings through more detailed zoning by-laws. What better protection could a person moving into a new residential sub-division require, and yet, unfortunately, our existing legislation provides to the individual nothing more than a false sense of security. What a hoax has been, in fact, perpetrated on the unsuspecting individual. It is only an illusion of security and material well-being along with references to the other amenities of life that the Act appears to safeguard, but, in fact, can be undermined and substantially altered even before the individual may take formal title to his property acquisition. The Act allows this situation to exist by generally providing for amendment procedure to zoning by-laws and official plans without providing specific direction or control to protect the individual homeowner from all the ensuing ramifications of such procedure. The Provincial and local governments completely control the preparation of a proposed plan of sub-division up to the date of registration of the plan. However, the moment the plan of sub-division is registered, the well-laid plans of state are, in many cases, open to criticism and sought-after change by private interests. These private interests in the vast majority of cases are sub-dividers, land and building developers or speculators, whose only concern is to attain a zoning classification for land, in which they have a vested interest, that would be compatible

Up to this point in my submissions, the reader may feel the reasoning contained herein is inconsistent, in that, on the one hand, it might appear to imply tighter government controls while championing the "laissez-faire" doctrine at the same time. There is no real inconsistency. The key distinction that brings these two points of view into compatible homogeny is that the private entrepreneur should be free to develop his land projects unabashed and free of any government restraints so long as he does so outside registered plans of sub-division that have become subject to zoning and building by-laws. As an alternative, if they wish to utilize land holdings acquired in such a registered plan of sub-division, let them do so in conformity with these regulations and controls. The need is to prevent the developers from unfairly placing the existing zoning and building by-laws, as they pertain to any given plan of sub-division, under attack even before the potential individual homeowners have collectively had an opportunity to populate and establish their roots in the planned community.

P A R T I I I - R E C O M M E N D A T I O N S

In order that local municipal governments, including their planning boards, could be relieved of a great deal of pressure from influential business interests and, more importantly, that the individual homeowner would be far greater assured of locating in a constant environment that would preserve his material and aesthetic well-being, provincial legislators should introduce corrective legislation that would permit the intervention of a period of time to

provide a more cautious and less speculative approach to re-zoning procedure. The end result of long-range future planning would be more likely to be achieved.

This corrective legislation would (a) prohibit the submission of re-zoning applications under the Planning Act until the third anniversary date of registration of any plan of land sub-division. In the present state of our economy, and considering present sub-division development procedure, very few sub-divisions become fully occupied within this period of time.

(b) In the fourth year of the existence of the registered plan, I suggest that a formal objection by a small percentage, say 20%, of the residents of a plan of sub-division, who reside within 200 yards of the proposed area of sub-division, be sufficient to stay any further proceedings on re-zoning applications.

(c) During the fifth year, a formal objection by 40% of the qualified persons would be sufficient. Normally, by the sixth year, the pattern of development of an area would be sufficiently well established, and the residents sufficiently well orientated to their environment, to provide to any interested applicant for re-zoning a clear picture as to the validity of such an undertaking, and at the same time would undoubtedly permit a better opportunity for an organized protest by the affected residents, if they so saw the need. In other words, the application could then be determined solely on its merits. In the fully developed sub-division, both sides would be in a better position to determine whether change in the early history of an established residential complex had validity.

Under the existing system, an application to re-zone can be implemented immediately without benefit of an historical assessment of the validity of the existing zoning controls. This makes the clause in sub-section 4 of Section 28 having "regard for the health, safety, convenience and welfare of the future inhabitants" both meaningless and ludicrous.

The introduction of the above suggested corrective legislation or of corrective legislation patterned after this suggested solution would have the desired effect of reducing the speculative aspects of re-zoning applications, of limiting the number of highly speculative applications coming before local planning boards and, most importantly, of protecting the individual homeowner to a much greater extent by ensuring stability during the early development of his planned community.

I thank this Committee for providing me with the opportunity to place before you my views on re-zoning procedure, and trust that you have accepted this constructive criticism in its proper perspective. I feel that this problem is of sufficient importance to merit your earnest consideration and immediate action.

